Part 6.
Key terms and concepts

Introduction

We have included this information in this guidance because our research has shown that many interpreters may not be fully aware of the meaning and implications of some key mental health legal terms and concepts that are particular to MHAAs. This can create unnecessary difficulties in preparing for and during a MHAA when terms and concepts drawn from the law and mental health have certain meanings or implications. Sometimes terms may seem intelligible across languages because in different contexts they can be commonly used so the highly specific meaning in the terms of the law and mental health, especially in a MHAA, is lost. The following is a list of key legal and mental health concepts in lay language by way of explanations rather than formal definitions.

Mental Health Act 1983 (the MHA)

The MHA is the current mental health legislation for England and Wales. It applies to both children and adults but is more commonly used with respect to adults. It came into effect in 1983 and at the time this guidance document was produced in 2023-24 the MHA was under formal review. The Government's response published in March 2024 to the Joint Consultative Committees' report was to reject most of its recommendations. Reforms to the MHA are likely to be at discretion of the new government. As law or statute, it contains specific duties, powers, and responsibilities which are invoked when an individual has a defined mental illness AND poses a risk to themselves or others and is unable to receive the assessment and/or treatment they require on a voluntary or informal basis (see below).

Code of Practice

A Code of Practice is published for the MHA and provides statutory guidance to all professionals in its use. It cannot be departed from unless there is cogent reason to do so; a standard that was made clear through case law. Until 2008 one Code covered both England and Wales, but separate ones are now published. Each Code contains principles and gives direction about the way in which the MHA should be carried out. This includes when interpreters should be used (see also Part 2).

Approved Mental Health Professional (AMHP)

An AMHP is a professional who has undertaken specialist training and has been approved by a local authority to carry out certain duties under the MHA. AMHPs are usually social workers but other allied health professionals are eligible to undertake the work once approved. These other professionals are mental health nurses, occupational therapists, or clinical psychologists.

Mental Health Act Assessments (MHAAs)

AMHPs are responsible for coordinating MHAAs, which is the whole process through which a decision is made as to whether the person being assessed should be admitted to a mental hospital or not. The AMHP is responsible for making this decision including whether the admission should be formal (compulsory admission) or informal (with the person being willing to go) (see below). Sometimes this process is more commonly referred to as being "sectioned".

A MHAA is not an assessment carried out with regard to psychological functioning or testing an ability/disability but has a legal basis through which the State enacts powers for the good of individuals who are experiencing extreme mental distress.

A MHAA is carried out by an AMHP and, usually two doctors, one who knows the person such as their GP and one a specialist doctor, a registered medical practitioner known as a Section 12 doctor. Doctors make a medical recommendation concerning the person's mental health. The AMHP then decides what is the best outcome in all circumstances of the situation, a decision they base on the medical recommendations, an assessment of the social circumstances and an interview with the person.

Interpreter

An interpreter is someone who mediates communication between two or more people that do not use the same language. This can be between two spoken languages, a spoken and a signed language or two signed languages. Professional interpreters have met national occupational standards by completing recognised training courses and /or assessments. In the UK interpreting is not a statutory regulated profession, but interpreters can voluntarily register with professional registration bodies in order to illustrate their commitment to best practices. Interpreting is carried out live, in real time in either consecutive (where one person speaks or signs at a time) or simultaneous mode (when the interpreter renders the interpretation just a few seconds after the original speaker/ signer; for spoken language interpreters this is done in some situations with the assistance of specialist equipment or through whispering to avoid auditory language clash). This is different from translation, which allows time for preparation, recording and editing before finalising the end signed or written translation product. So, AMHPs work with interpreters not translators in MHAAs. In the context of MHAAs, spoken language community interpreters tend to work consecutively and due to the fact that there is no clash between two languages being spoken at the same time, sign language interpreters typically work simultaneously. In the UK public service interpreting context, interpreters are only expected to mediate communication; they are

expected to remain impartial and not undertake any type of advocacy activity. In public service settings, and specifically in MHAAs, professional interpreters should always be used. Bilingual family members, friends or acquaintances should not be called upon to do any interpreting because they may not have the interpreting skills required or the specialist knowledge, and may also have a conflict of interest.

Interviews

MHAAs typically involve an interview with the person being assessed and significant others including family and where possible other professionals. Interviews are likely to include questions about a person's thoughts and feelings, lifestyle and daily routine, medication, use of drugs and alcohol and plans a person may have to harm themselves or others. It is also an opportunity for the AMHP to explore whether any option other than hospital admission might be viable – sometimes referred to as the least restrictive alterative.

Key mental health concepts

Concepts associated with mental health are based around usual understandings of 'normal' behaviours as they are understood for the purposes of this practice guide in a British context. Different mental health terms can arise during a MHAA:

- **Delusion.** Some people may believe they are someone they are not. This can include royalty or religious figures. Delusions may also take the form of false beliefs about others including assumptions about who might be harming them.
- **Disordered thought.** A person's apparent inability to make sense of what they are thinking or to explain this in a way which makes sense to another. It can result in expression in spoken or signed language that is unusual, hard to follow or nonsensical.
- **Flight of ideas.** A person may be having lots of thoughts not necessarily connected with each other or based on ideas that may not be making sense to an observer. This too can affect the form of expression someone uses such as fast speech/signing or repetitive words.
- **Hallucination.** A person may be seeing, hearing, feeling, tasting or smelling something not apparent to anyone else at that time. This can sometimes be referred to as hearing voices. It may result in a person having a conversation with someone they are hallucinating.
- **Psychosis.** A severe mental condition usually implying that contact with reality has been lost.

Whilst concepts relating to mental health are fluid and can change over time, there are key legal concepts which underpin a MHAA, that are fundamental to the process and significant.

Key legal concepts

- **Formal admission** or detention is where a person is admitted to hospital against their will. It is also referred to as involuntary admission, compulsory admission or being sectioned; a phrase that refers to the section of the MHA under which the person is admitted.
- **Informal admission** is where a person is admitted to hospital with their agreement. It is sometimes referred to as **voluntary admission**.
- **Section 2** can be for a period of up to 28 days and is for assessment. **Section 3** is for a period of up to 6 months and is for assessment and treatment. Other sections exist such as **Section 4** used in an emergency when the two medical recommendations are not available and to delay might cause undue harm and **Section 136** which allows for the police to take a person in a public place who may be behaving strangely and threatening harm to themselves or others to a place of safety, so that a MHAA can be done.
- **Nearest Relative.** The MHA introduces formal safeguards to act as a check when decisions about formal admission or detention are being considered. One such safeguard is a Nearest Relative who must be consulted by the AMHP wherever practicable. Nearest Relative does not mean next of kin. The definition of who is the Nearest Relative is given in order of rank in **Section 26** of the MHA. A Nearest Relative must agree to an admission especially in the case of a Section 3. The formal legal requirement is that the AMHP must ensure that the Nearest Relative does not object. This is not the same as the Nearest Relative being required to consent.
- **Statutory.** Refers to any action that is guided by law. An AMHP has a statutory duty as defined in the MHA to coordinate a MHAA including interviewing the person in a suitable manner.

INforMHAA: Interpreter-mediated Mental Health Act Assessments

Best practices for Approved Mental Health Professionals and Interpreters working together

Document Description

This document is an **extracted section** from **INforMHAA Project Guidance & Resources** for use as a handy reference.

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