

# Elderly People and the Law

Second Edition

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## PREFACE TO THE SECOND EDITION

It is just two decades since I started to write the first edition of this book. It was so much simpler then and having been a solicitor in general practice I was able to tackle the entire topic on my own. Community care was in its infancy, the courts had less involvement in healthcare, and mental incapacity was only addressed in respect of financial affairs. The social and legal climate has changed almost unrecognisably in the intervening years and the fields of law that need to be covered have expanded exponentially. Now we must address human rights, European Union law, equality legislation (including disability discrimination), civil partnerships, data protection and elder abuse, quite apart from the overarching mental capacity jurisdiction and the further development of the inherent jurisdiction. For this reason I invited Caroline Bielanska to join me as an equal partner in producing this second edition. She has an impeccable background as recently retired chief executive of *Solicitors for the Elderly*, and is thoroughly versed in those areas of law that I tended not to encounter as a district judge. I express my thanks to her for rising to the challenge.

I wrote the first edition in MS Word on an Apple Macintosh using two displays and a laser printer and now, after many years staring at Windows in my judicial work, I have returned to Apple. The computer may work faster and the displays are larger, but little else has changed in my writing environment. Yet technology seeks to challenge the traditional world of publishing. The internet has revolutionised the way the law is accessed and threatens us with information overload. We no longer need to rely upon a traditional law library, but with a suitable subscription can access all the books we need on a laptop. Statutory material and government guidance can be found through a Google search, organisations maintain their own websites providing valuable information and even law reports are freely available on Bailii. The problem for the individual, whether or not a professional, lies in bringing the relevant material together and achieving an overview in a world of legal specialisms. That is what this book seeks to do.

I hope that there will be further editions but they will not be written by me. As I prepare to enter my 70th year I have become a consumer of my own work. I was struck by the way that Brenda Hale (then Mrs Justice Hale but now Baroness Hale, a Justice of the Supreme Court) referred in her Foreword for the first edition to the 'four ages of mankind and womankind'. I hope now to enjoy the third age and that the fourth age will not, for me, be artificially prolonged, but it is all a matter of personal perspective. When I studied law at Manchester University half a century ago I would have commented that I did not wish to live beyond 80 years because there would be no quality of life. I am

beginning to change my mind! I did not overlap with Baroness Hale during my time at Manchester but first had the opportunity to work with her as a member of a couple of working parties for the Law Commission mental incapacity project. Since then she has played a key role in developing the law for children and disabled adults whilst I have merely been able to work in and write about these fields. But it has been a pleasure to witness the law and our legal system developing a more human approach to the way it treats vulnerable people.

For many years I have intended to update this book but the desire to promote the new mental capacity jurisdiction in my writings has always taken priority. I wish to thank Sally Drever, who was editor of my first book *Mental Handicap and the Law* in 1990, for her persistent encouragement without which I may never have embarked upon the task. It has been a pleasure to work with her again on this my final publication.

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