

Board of Directors (Public)

Item 3.4

Subject: Mental Capacity (MCA) & Deprivation of Liberty Safeguards (DoLS) Update

Date of meeting: 20th October 2015

Prepared by: Joanne Shaw – Safeguarding Lead
Terri Meecham – DoLS Facilitator

Presented by: Sue Pemberton - Director of Nursing and Quality

Board Report

Data Quality Rating	BAF Ref	Impact on BAF Risk Rating?
Bronze	1,2	None

1. Executive Summary

The purpose of this paper is to update the Board of Directors on the number of applications made for the previous quarter in relation to the deprivation of liberty safeguards.

2. Background

Following the Supreme Court ruling in March 2014 for the cases of P v Cheshire West and P & Q v Surrey County Council an action plan was produced by the Head of Nursing & Quality – Corporate as to how the Trust could increase awareness and educate its staff regarding understanding the need for deprivation of liberties (DoLS) in safeguarding adults. As part of the plan a DoLS facilitator was appointed and a new safeguarding lead is in post.

Work has been underway in the Trust to raise awareness of deprivation of liberties with a training plan and education on wards across the Trust.

3. Current Position

DoLS & MCA Policy

Following the rulings in 2014 the Department of Health indicated that it would be issuing new codes of practice. The issue date of these continues to be put back.

On 7th July 2015 the Law Commission published its consultation paper on mental capacity and Deprivation of Liberty (DoL). The review was prompted by concern that the current arrangements are not fit for purpose, particularly since the Supreme Court's judgment in Cheshire West was handed down, which has vastly increased the volume of requests for authorisation both via local authorities and the Court of Protection. The consultation is open until 2 November 2015, after which the Commission aims to publish its recommendations to the Government, which may lead

to significant changes to the DoLS landscape.

In the interim a new policy for deprivation of liberty safeguards has been created, rolled out for consultation and all comments have been considered. This has now been ratified at the October 2015 safeguarding group and will be published on the staff intranet. The mental capacity policy has also been reviewed and this has also been ratified at the October 2015 safeguarding group and will be published on the staff intranet.

As a result of the potential changes and due to the lack of guidance issued by the Department of Health these policies may be updated in the coming months.

Awareness Sessions for Staff

The Safeguarding Lead is currently undertaking face to face training with staff in various areas of the Trust (via preceptorship, Junior Doctors Induction, MCA/DoLS training sessions) and dates have been arranged and advertised for the remainder of the year. Attendance at these sessions also counts as part of the mandatory training. For those who are unable to attend a session a new electronic mandatory training pack and quiz has been created and is to be implemented by learning and development.

Safeguarding Ambassadors have also been identified across the Trust including staff from the community team; these staff will be issued with badges so that they can be easily identified should patients, family members and other staff have any questions.

MCA Assessments and DoLS Applications

For Q2 a total of 22 assessments for MCA only and 9 Deprivation of Liberty Applications have been made:

DoLS Applications

- 3 Application made to St Helens – 2 Standards approved, 1 urgent and extension approved
- 2 Applications made to Sefton – 2 Standards approved
- 2 Applications made to Liverpool – 2 Urgent applications and extensions submitted, 1 was approved and the standard was not required, 1 issued by Trust but no response received and standard discontinued prior to authority assessment of patient.
- 1 Application made to Besti Cawaladr Health Board – Urgent and extension approved
- 1 Application made to Warrington – Urgent application and extension issued by Trust but no response received and standard discontinued prior to authority assessment of patient.

In addition to the above applications made, mental capacity assessments have also been undertaken on 22 occasions the following instances to determine whether the patient required a DoLS application. In all instances it was felt that the patient had capacity and therefore an application was not processed.

4. Recommendations

That the Board of Directors note the update on the work undertaken to date in relation to DoLS and MCA and note the numbers of applications made and assessments undertaken.