

## BOARD OF DIRECTORS MEETING (Open)

Date: 13 December 2017

Item Ref: 13iii

<b>TITLE OF PAPER</b>	Mental Capacity Act and Deprivation of Liberty Steering Group Q2 Report 2017/18, July to September 2017
<b>TO BE PRESENTED BY</b>	Liz Lightbown, Executive Director of Nursing, Professions and Care Standards
<b>ACTION REQUIRED</b>	Members to receive for information and assurance.
<b>OUTCOME</b>	Members are assured that: the Mental Capacity Act (MCA) is Deprivation of Liberty Safeguards (DoLS) are being implemented in the Trust in line with the Mental Capacity Act 2005 and the respective Codes of Practice for the Act and DoLS; that CQC and Internal Audit requirements are being met; and patients' rights are being protected through correct recording, monitoring and careful scrutiny of practice data by the members of the Steering Group.
<b>TIMETABLE FOR DECISION</b>	December 2017 Meeting
<b>LINKS TO OTHER KEY REPORTS/ DECISIONS</b>	Report of the Mental Health Act Committee
<b>LINKS TO OTHER RELEVANT FRAMEWORKS BAF, RISK, OUTCOMES</b>	Strategic Aim: Quality & Safety, Strategic Objective: A1 01
<b>IMPLICATIONS FOR SERVICE DELIVERY &amp; FINANCIAL IMPACT</b>	To maintain improvement in the implementation of the MCA and to preserve the rights of those subject to care delivered under the MCA and/or subject to Deprivation of Liberty Safeguards will require on-going monitoring of procedures and practice and recommendations for changes where necessary. If financial implications come to light, individual business cases will be submitted for consideration.
<b>CONSIDERATION OF LEGAL ISSUES</b>	It is a legal requirement that the Trust complies with the MCA/DoLS.
<b>Author of Report</b>	Anita Winter and Anne Cook
<b>Designation</b>	Service Director Learning Disability Services; Head of Mental Health Legislation
<b>Date of Report</b>	14 November 2017

## SUMMARY REPORT

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**Report to:** OPEN BOARD OF DIRECTORS MEETING

**Date:** 13 December 2017

**Subject:** Mental Capacity Act and Deprivation of Liberty Steering Group  
Quarter 2 Report, July to September 2017

**Presented by:** Liz Lightbown, Executive Director of Nursing, Professions and  
Care Standards

**Authors:** Anita Winter, Service Director Learning Disabilities  
Anne Cook, Head of Mental Health Legislation

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### 1. Purpose

<i>For Approval</i>	<i>For a collective decision</i>	<i>To report progress</i>	<i>To seek input from</i>	<i>For information</i>	<i>Other (please state below)</i>
		✓		✓	

### 2. Summary

This is the first quarterly report of the Mental Capacity Act and Deprivation of Liberty Steering Group (MCA/DoLS Steering Group). It is submitted to provide assurance that the use of the Mental Capacity Act (MCA) by the trust is in accordance with both the Statute and Code of Practice (MCA Code of Practice 2007). Where necessary, changes are recommended or made by the Steering Group to assure compliance. For clarity, this first report makes brief reference to audit work prior to Q2. This report was received at the Executive Directors Group and Quality Assurance Committee in November.

Assurance is given that significant progress has been made in establishing robust systems and processes that define, check and allow learning about the quality and effectiveness of application of the Mental Capacity Act, and to improve the knowledge, skills and understanding of the workforce who are applying it.

The report is provided under the following headings:

1. Introduction
2. Internal Audit
3. The Law Commission and DoLS
4. The Group's work in Q2
5. The Trust's use of DoLS
6. Work Plan

### **3. Next Steps**

The MCA/DoLS Steering Group will continue to meet on a monthly basis and to submit a quarterly report to the Executive Directors Group, Quality Assurance Committee and Board of Directors.

The Steering Group will become a Committee on the conclusion of the current service reconfiguration; its reporting structure and terms of reference will run parallel to those of the Mental Health Act Committee.

### **4. Required Actions**

Members are to receive the report for information, assurance and approval.

### **5. Monitoring Arrangements**

Monitoring of the Mental Capacity Act is the remit of the Mental capacity/DoLS Steering Group.

### **6. Contact Details**

For further information, please contact:

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## Mental Capacity Act & Deprivation of Liberty Steering Group - Quarter 2 Report July to September 2017

### 1. Introduction – The Mental Capacity Act (MCA) & Deprivation of Liberty (DoLS) Steering Group

As noted in the report from the Mental Health Act Committee (MHAC), it had been intended that an over-arching Mental Health Legislation Committee would be developed to unify the quality assurance and governance functions currently undertaken separately by the MHAC and the (MCA/DoLS) Steering Group. However, it has not proven viable to achieve a unified Committee; the options resulted in either an increased burden of meetings for core attendees or in a reduction in the frequency of the scrutiny provided. Therefore, on completion of the current service reconfiguration, the MCA/DoLS Steering Group will become the MCA/DoLS Committee, and Terms of Reference will be developed to facilitate parallel reporting and governance structures with the MHAC: the two Committees will be linked by the Head of Mental Health Legislation role and by shared core membership.

Despite the difficulties with unifying the Committees, the objective of ensuring that practice in the Trust conforms to the requirements of all mental health legislation continues. Although any admission, treatment or other intervention (other than that carried out under the MHA) is governed by the MCA, the National Mental Capacity Forum has recently found the legislation, after 10 years in force, still to be widely misunderstood; the Steering Group is focused on ensuring that Trust staff develop their understanding and apply it in safe and lawful practice.

The MCA/DoLS Steering Group meets on a monthly basis, chaired by Anita Winter, Service Director, Learning Disabilities.

### 2. Internal Audit

#### 2.1 Progress against 2015/16 Audit

Progress against 360 Assurance Audit carried out in 2015/16 on MCA and DoLS is provided to this meeting today in a separate paper. The only remaining outstanding area of work is the completion of the DoLS Audit. The audit tool has been developed and will examine the availability and quality of relevant DoLS documentation and the implementation of any attached conditions.

#### 2.2 360 Assurance Audit 2017/18

Fifteen days have been allocated to audit compliance with mental health legislation (MHA and MCA). The Terms of Reference have been agreed and the work will take place in three parts:

- Part One – five days for non-opinion supportive work to help the Trust establish robust governance and reporting arrangements at board sub-committee and feeding group level

- Part Two – five days for an assurance opinion piece on the robustness of the current MHA audit undertaken by the Trust
- Part Three – five days for an assurance opinion piece on the quality of MCA assessments and Best Interests documentation, plus the 2<sup>nd</sup> follow-up audit of the MCA.

The scope of the audit is limited to offering assurance opinions on these specific aspects of MHA and MCA systems. There will be no opinion offered on overall governance, although it is recommended by the auditors that this is subject to further internal audit on 2018/19.

### 2.3 Auditing Mental Capacity Assessments and Best Interests Decisions

The Steering Group developed an audit tool: Auditing Mental Capacity Assessments and Best Interests Decisions. This tool will ensure that there is a coordinated and consistent approach in place across the Trust and it has been made available for use in Sheffield Teaching Hospitals, Sheffield Council and the Clinical Commissioning Group. The Audit will form part of the Trust Audit Programme for 2017/18 and thereafter.

Initial audit findings from the audit resulted the Trust's Mental Capacity Act Assessment Form and Best Interests Record Forms (Insight forms) being amended and improved

In common with the findings of the National Forum, the Trust audit concluded that the MCA is not embedded in day to day processes, and therefore is not compliant with the Mental Capacity Act Code of Practice.

**Assurance:** In response to these findings, a single record of capacity and consent is being developed and is intended to be part of the Insight system, and in use across the Trust, by the end of January 2018. There is an on-going programme of training for staff in using the new forms and the training is raising awareness of the role of the MCA in everyday practice (please see 4.2.8).

## 3 The Law Commission and DoLS

The House of Lords Select Committee on the Mental Capacity Act 2005 described DoLS, as 'not fit for purpose, poorly drafted and overly complex'. Consequently, the Government asked the Law Commission to review the Mental Capacity Act and DoLS.

The Law Commission's final report and draft Bill were published in March 2017. Its main criticisms included the impact in terms of delays in granting authorisations resulting from the massive increase in the numbers affected as a consequence of the *Cheshire West* ruling, potential conflicts of interest, and the use of DoLS 'after the fact' to legitimise unlawful removal of a person from their home.

The Law Commission's proposals seek to address these shortcomings, reducing delays, providing increased scrutiny and allowing more flexibility, for example an authorised deprivation of liberty might apply to travel to, residence at and treatment in more than place.

The Government issued a briefing paper on in early October 2017; its response to the Law Commission's proposals is awaited.

**Assurance:** The impact of *Cheshire West* and the complexity of the DoLS arrangements affected all providers, including the Trust. The Steering Group is monitoring the use of DoLS, please see part 5 below.

## 4 The Group's Work in Q2

### 4.1 Updates from Local and Regional Meetings

#### 4.1.1 CCTV & Consent

The City-wide Restraints Steering Group considered issues of CCTV & Consent following a Best Interest Assessors visit to a couple of Care Homes (owned by the same company), who had fed back that the homes had CCTV in their lounge areas. The Assessors had queried this and said that there should be consent and/or a best interest decision in place.

**Assurance:** Steering Group Leads were asked to review their local practice with a view to identifying any use of CCTV in communal areas – no issues or concerns were identified in the Trust.

### 4.2 Policies, Procedures and Guidance

#### 4.2.1 Mental Capacity Act 2005 Deprivation of Liberty Safeguards (DoLS) Policy

The policy was reviewed for a second time in response to 360 Assurance auditor's further advice. The policy has been reviewed and clarified with regard to what happens after a DoLS authorisation is not granted, and stipulates that a nominated deputy must be in place in the absence of the person normally responsible for actions undertaken in respect of this policy. It is scheduled for final sign-off at the Policy and Governance Group in November 2017. This is supported by a Standard Operating Procedure (SOP) for Staff Recording Consent, which provides all health and social care staff working for SHSC with a quick reference guide for where information regarding consent must be documented.

#### 4.2.2 Advance Statements of Wishes

The 'Advance Decisions to Refuse Treatment/Advance Statements' Policy has been updated with sign-off at the MCA/DoLS Steering Group and at EDG in November 2016.

Work is underway to update the Trust's form for recording decisions made in advance; the original form pre-dated the MCA and is no longer suitable for distinguishing between the formality of an Advance Decision to Refuse Treatment made under the MCA, and the broader concept of wishes expressed in advance, including requests or preferences for treatment, rather than refusal. A draft version of the form is currently being piloted in Learning Disabilities.

Practice guidance will be developed through the Steering Group as part of the trust policy review.

#### 4.2.3 Training & Development

##### 4.2.3.1 Mandatory Training Compliance 2017/18

A summary of compliance achievement for 2017/18 is noted below:

Month	DoLS Level 1	DoLS Level 2	MCA Level 1	MCA Level 2
30 April 2017	90%	82% (-0.55%)	72% (+4.93%)	72% (+4.12%)
31 May 2017	90%	80% (-1.94%)	74% (+2.38%)	75% (+3.26%)

30 June 2017	92% (+2)	85% (+5.29%)	81% (+6.74%)	79% (+3.42%)
31 July 2017	92%	84% (-1.29%)	84% (+3%)	82% (+3%)
31 August 2017	95% (+3%)	84%	85% (+1%)	83% (+1%)
30 September 2017	55% (-40%)	83% (-1%)	86% (+1%)	84% (+1%)

DoLS and MCA Level 1 training are now available face-to-face on induction and mandatory training update as well as e-learning.

The falling away of compliance with MCA Level 1 is largely accounted for by new starters, and sessions are booked to provide the training.

#### 4.2.3.2 Enhanced Training

Edge Training an external training provider was commissioned to deliver two bespoke sessions:

- Advanced Assessing Capacity and Best Interests - 7 July 2017
- Community Legal Frameworks – 14 September 2017

These sessions were well received and provided key updates to developing case law; the Community Legal Frameworks session encompassed MCA and MHA, giving valuable insight into the developing interface between the two statutes.

#### 4.2.4 Practice Development

As noted in the MHAC report, some practical steps are being taken towards developing practice under the MCA and the MHA in respect of both Statute and case law:

- MHA training sessions now include specific reference to the fact that any practice or intervention concerning the care and treatment of patients that is not governed by the MHA will, by definition, fall under the MCA
- Training is being delivered to all teams on the new MCA Insight forms for recording capacity and consent to treatment. These forms require consideration of which legal framework is appropriate and guide staff to the correct set of documents
- Preparation is underway for the proposed amalgamation (under a human rights umbrella) of the update training for MHA, MCA and Clinical Risk Management
- The current MCA/DoLS Practice Development workshops are being adapted to incorporate a MHA aspect. The first planned session, to be delivered on 9 October 2017, is entitled 'Mental Health Tribunals and Mental Capacity'.

#### 4.2.5 MCA/DoLS Practice Development Group (PDG)

The PDG is held on a quarterly basis, open to all interested staff. The following topics have been delivered. Where possible, each topic is delivered in line with the training delivery outcomes of MCA Level 1 and 2/DoLS Level 1 and 2.

Date	Session Title
11 April 2017	Final Report and Draft Bill around MCA/DoLS
4 July 2017	Support and Advice for Service Users and Carers where MCA Issues are Identified

#### 4.2.6 MCA Insight Form Development

Over the past 18 months the Steering Group has worked towards developed a new MCA form on Insight. This set of documents constitutes a means by which all relevant clinical and non-clinical decisions regarding capacity and consent (MCA and MHA) and best interests decisions (MCA only; the notion of best interests does not feature in the MHA) can be recorded in one central location. This will enable improved monitoring, audit and assurance of application of both the MCA and the MHA in this regard.

A comprehensive plan of training to all areas across the Trust is in progress, with training being delivered delivery by a member of the Insight Team and a clinician expert in the field of MCA in order that staff members receive a comprehensive overview. This is supported by a detailed help-sheet

Completion of the form requires consideration of which legal framework (MHA or MCA) is appropriate and the system guides staff to the correct set of documents. This further reinforces the understanding of the two Acts and their complicated interface.

A pilot of the form commenced on 20 September 2017 across the Learning Disabilities Directorate. The Community Learning Disabilities Team has applied the form to specific pathways: for referral; eligibility; Head to Toe Assessment; Posture Management and Dysphagia. Teams receiving training have been asked to consider any similar specific circumstances or thresholds for making a formal record of capacity and consent.

IT colleagues require 20-30 completed MCA forms to be completed in order to remedy any technical issues before further roll out. CERT will be included in the 'live pilot' from October 2017 to speed up the testing process. The 'live' roll out across all trust areas is scheduled to be completed by 31 January 2018.

### 5. The Trust's Use of DoLS

#### 5.1 Central Register for Recording DoLS Applications/Authorisations

The Steering Group established a system for recording all applications for DoLS made to the Supervisory Body at local level (Wards and Registered Care Homes) with central oversight from the Lead. In collaboration with the local DoLS Team, registers have been cleansed and updated.

The registers for each area will now be held centrally, located on the datastore, with each local manager (and/or nominated deputy) making changes directly to this. These registers will be monitored by the Mental Health Act Office.

A summary by area of the DoLS Authorisations in place is detailed below.

For Buckwood View, Birch Avenue and Woodland View it would be expected that all residents would require a DoLS authorisation, as it is unlikely that any resident would have capacity to decide about their place of residence.

In the remaining services, detention under the MHA is more likely.

Service Area	Number of Beds	Authorisations requested – not yet granted	Authorisations in place	No. with conditions attached	Percentage requests+ granted by bed number
Buckwood View Nursing Care Home	18	8	9	7	94.44
Birch Avenue Nursing Care Home	40	22	15	10	92.5
Woodland View – Willow Cottage	45	13	2	0	91.1
Woodland View – Beech Cottage		14	1	0	
Woodland View – Oak Cottage		14	1	1	
Stanage Ward	18	0	0	0	0
Burbage Ward	14 mental health beds, 5 detox beds	0	0	0	0
Assessment & Treatment Service	7	1	0	0	14.3 (others MHA)
Dovedale Ward	18	0	0	0	0
Forest Close		0	0	0	0
Forest Lodge	22	0	0	0	0
Endcliffe Ward	10	0	0	0	0
Maple Ward	17 mental health beds  2 Place of Safety/S13 6 beds	0	0	0	0
G1 (Data to be confirmed)	16	TBC	TBC	TBC	

A priority area of work for the Steering Group in Quarter 4 is to enable the trust to identify how many challenges to DoLS applications have been taken to the Court of Protection and to establish a clear and transparent process for the trust to follow. This a requirement of the Internal Audit

## 6. Work Plan

The Steering Group Work Plan has been reviewed and updated for 2017/18. A copy is attached at Appendix 1.

**PRIORITY WORK PLAN 2017/18 FOR AGREEMENT BY EDG AND THE BOARD OF DIRECTORS**

A written quarterly update report will be submitted to the EDG/Board of Directors' to monitor progression of the Work Plan 2017/2018. The report will include related issues and incidents within the Trust, actions taken and outcomes. These exceptions will be highlighted in the quarterly reports. Assurance will, therefore, be provided that the Trust has taken the appropriate actions in relation to MCA/Deprivation of Liberty and is responding to issues identified through continued monitoring.

The design of this programme is to ensure continued and effective implementation of the Mental Capacity Act (MCA) and Deprivation of Liberty Legislation across all SHSC Directorates through active Directorate Steering Group membership and leadership to assure the Board that the legal duties of the organisation are delivered.

<b>KEY</b>	
	<b>Action complete:</b> evidence available
	<b>Action complete:</b> evidence being compiled
	<b>Action on track:</b> will progress to timescale
	<b>Action off track:</b> subject to executive escalation

**SECTION 1 – POLICIES, PROCEDURES & GUIDANCE**

<b>NO</b>	<b>ACTION</b>	<b>LEAD</b>	<b>TIMESCALES</b>	<b>STATUS</b>	<b>UPDATE</b>
1.1	<p>Capacity and Consent to Care, Support and Treatment Policy.</p> <p>Clarity is required on the Trust expectations for when 'formal' documentation of consent/capacity is required and when a reference in progress notes is appropriate.</p>	Zara Clarke & Anita Winter	June 2017	<b>BLUE</b>	<p>Tabled for discussion at May 2017 Steering Group.</p> <p>Draft guidance drafted, discussed and agreed at the August 2017 Steering Group.</p> <p>Guidance to be reformatted into SOP and taken to September Policy Governance Group for agreement then distribution across the trust.</p> <p>SOP agreed and disseminated across trust; copy of SOP placed on MCA intranet page and on policy page.</p>
1.2	<p>Continue to review the Mental Capacity Act Deprivation of Liberty Safeguards Policy to include further practical guidance/refer to the Intranet page and specify the monitoring arrangements.</p>	Anita Winter & Ronda Ninkovic	August 2017	<b>BLUE</b>	<p>Policy reviewed in light of the Chief Coroners Guidance DoLS published and in force for 3 April 2017. Changes publicised through a variety of routes. Policy amendments to be made by 31 May 2017.</p> <p>Policy fully reviewed and tabled for discussion at the August 2017 Steering Group.</p> <p>Policy amended by Anne Cook in light of comments – to be signed off at September Steering Group.</p> <p>Policy signed off.</p>
1.3	<p>To continue to review the Advance Decisions to Refuse Treatment/Advance Statements Policy.</p>	Anita Winter & Zara Clarke	September 2017	<b>YELLOW</b>	<p>Task &amp; Finish Group established to review current Insight data, develop and implement audit.</p> <p>Advance Statement Form reviewed and updated "Telling us how you would like to</p>

				<p>be treated by SHSC” tabled for discussion at the August 2017 Steering Group. The form is to help service users to tell the trust, at a time when they are able to express their wishes, about what is important to them and how they would like to be cared for and treated at a time in future when they are not so well and have become unable to express their wishes. Comments noted. To be tabled for final agreement at the September 2017 Steering Group.</p> <p>Further amendments suggested and form to be amended. Form also piloted in CLDT.</p>
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**SECTION 2 – TRAINING AND DEVELOPMENT**

NO	ACTION	LEAD	TIMESCALES	STATUS	UPDATE
2.1	Review the MCA training competence allocation for all grades of staff.	Jennie Wilson, Bob Levesley, Zara Clarke	August 2017	<b>BLUE</b>	<p>Review of competence allocation scheduled for discussion at the June Steering Group.</p> <p>Tabled for discussion with no amendments made to existing allocations.</p>
2.2	Training compliance rates to be improved and the impact of training on staff understanding to be assessed.	Jennie Wilson, Bob Levesley, Zara Clarke	April 2017	<b>BLUE</b>	<p>MCA Level 1 to be incorporated into Trust Mandatory Training Day and New Starter Induction Day with effect from April 2017</p> <p>Mandatory Training compliance as at 30 April 2017:</p> <ul style="list-style-type: none"> <li>• MCA Level 1 72%</li> <li>• MCA Level 2 – 72%</li> <li>• DoLS Level 1 – 90%</li> <li>• DoLS Level 2 – 82%</li> </ul> <p>Mandatory Training compliance as at 31 May 2017:</p> <ul style="list-style-type: none"> <li>• MCA Level 1 74%</li> <li>• MCA Level 2 – 75%</li> <li>• DoLS Level 1 – 90%</li> <li>• DoLS Level 2 – 80%</li> </ul> <p>Mandatory Training compliance as at 30 June 2017:</p> <ul style="list-style-type: none"> <li>• MCA Level 1 81%</li> <li>• MCA Level 2 – 79%</li> <li>• DoLS Level 1 – 92%</li> <li>• DoLS Level 2 – 85%</li> </ul> <p>Mandatory Training compliance as at 31 July 2017:</p>

**SECTION 2 – TRAINING AND DEVELOPMENT**

NO	ACTION	LEAD	TIMESCALES	STATUS	UPDATE
					<ul style="list-style-type: none"> <li>• MCA Level 1 84%</li> <li>• MCA Level 2 – 82%</li> <li>• DoLS Level 1 – 92%</li> <li>• DoLS Level 2 – 84%</li> </ul> <p>Mandatory Training compliance as at 30 August 2017:</p> <ul style="list-style-type: none"> <li>• MCA Level 1 85%</li> <li>• MCA Level 2 – 83%</li> <li>• DoLS Level 1 – 95%</li> <li>• DoLS Level 2 – 84%</li> </ul> <p>Mandatory Training compliance as at 30 September 2017:</p> <ul style="list-style-type: none"> <li>• MCA Level 1 86%</li> <li>• MCA Level 2 – 84%</li> <li>• DoLS Level 1 – 55%</li> <li>• DoLS Level 2 – 83%</li> </ul> <p>Mandatory Training compliance as at 31 October 2017:</p> <ul style="list-style-type: none"> <li>• MCA Level 1 88%</li> <li>• MCA Level 2 – 84%</li> <li>• DoLS Level 1 – 62%</li> <li>• DoLS Level 2 – 81%</li> </ul> <p>DoLS and MCA Level 1 is now available face-to-face on induction and mandatory training update as well as e-learning.</p> <ul style="list-style-type: none"> <li>• <b>Enhanced Training</b></li> </ul>

**SECTION 2 – TRAINING AND DEVELOPMENT**

NO	ACTION	LEAD	TIMESCALES	STATUS	UPDATE
					<p>Edge Training (<a href="http://www.edgetraining.org.uk">www.edgetraining.org.uk</a>), an external training provider was commissioned to deliver two bespoke sessions targeted to staff within the trust and across the Transforming Care Partnership, working with people with learning disabilities who fall within the 'transforming care' cohort. These sessions were:</p> <ul style="list-style-type: none"> <li>• Advanced Assessing Capacity and Best Interests - 7 July 2017</li> <li>• Community Legal Frameworks – 14 September 2017</li> </ul>
2.3	Review the MCA training module.	Zara Clarke & Bob Levesley	May 2017	<b>BLUE</b>	<p>Training module currently under review.</p> <p>Training module reviewed and in use.</p>
2.4	Increase MCA pool of training facilitators	Jennie Wilson, Bob Levesley, Zara Clarke	May 2017	<b>BLUE</b>	<p>Training and Development Team have received training to deliver MCA Level 1 as part of Trust Induction and Mandatory Training Day.</p> <p>Triple programme (MHA/MCA/Clinical Risk) will further increase the pool of trainers.</p> <p>In terms of MCA training development a three-year training plan was developed and agreed by EDG which includes the following key areas:</p> <ul style="list-style-type: none"> <li>• <b>Qualified Clinical Staff Mandatory Training Update Day for Non-inpatient Services</b></li> </ul> <p>Staff in professional roles in non-inpatient</p>

**SECTION 2 – TRAINING AND DEVELOPMENT**

NO	ACTION	LEAD	TIMESCALES	STATUS	UPDATE
					<p>services will be required to attend this training every three years. Subjects covered are: Clinical Risk Update, MCA Level 2 and MHA (assumes a CQC requirement for MHA training to be wider than just in-patient nurses and provided to all professional staff).</p> <p>This is a one-day course and approximately 780 staff will need to attend this. This means that 260 staff per year will be required to attend training. Therefore the plan is to hold 13 courses per year, 20 staff per course.</p> <p>Trainers from outside ETD will be needed to deliver this course so the Steering Group will be looking to key individuals from directorates to support this. This course will need to start to run at this frequency from December 2017.</p> <ul style="list-style-type: none"> <li> <b>Qualified Clinical Staff Mandatory Training Update Day for Inpatient Services</b> </li> </ul> <p>Staff in professional roles working in in-patient services (primarily but not exclusively nurses e.g. also includes physiotherapists, psychologists etc.) will need attend this training every 3 years. Subjects covered are: Clinical Risk Update, MCA Level 2 and MHA (specific for in-patient nurses).</p>

**SECTION 2 – TRAINING AND DEVELOPMENT**

NO	ACTION	LEAD	TIMESCALES	STATUS	UPDATE
					<p>This is a one-day course and approximately 170 staff will need to attend this. This means that 57 staff per year will be required to attend training. Therefore the plan is to hold three courses per year, 19 staff per course.</p> <p>Trainers from outside ETD will be needed to deliver this course so the Steering Group will be looking to key individuals from directorates to support this. This course will need to start to run at this frequency from December 2017.</p> <p>Currently we are looking at options for combining the 3 subjects. The update for all 3 subjects will take no more than one working day. Options will be tabled at the Mandatory Training Steering Group on 13 November 2017.</p> <p>Combining the subjects allows for a greater understanding of how these subjects interact and allows staff to understand the combined application into practice as well as reducing staff release time for update training (by one day per every 3 year cycle).</p>
2.4	To ensure staff are recording consent/ capacity as expected through the training provided; to accompany roll-out of the 'form' and continuation of audit of forms.	Zara Clarke & Bob Levesley	June 2017	<b>BLUE</b>	<p>Tabled for discussion at May 2017 Steering Group.</p> <p>Guidance to be reformatted into SOP and taken to September Policy Group for agreement then distribution across the trust.</p>

**SECTION 2 – TRAINING AND DEVELOPMENT**

<b>NO</b>	<b>ACTION</b>	<b>LEAD</b>	<b>TIMESCALES</b>	<b>STATUS</b>	<b>UPDATE</b>
					SOP agreed and disseminated across trust; copy of SOP placed on MCA intranet page and on policy page.

**SECTION 3 – PRACTICE DEVELOPMENT**

NO	ACTION	LEAD	TIMESCALES	STATUS	UPDATE
3.1	Undertake an audit of Advance Decisions to Refuse Treatment/Advance Statements currently in use situ across the trust to understand activity.	Anita Winter/Zara Clarke	July 2017	GREEN	<ul style="list-style-type: none"> <li>Insight statistics obtained for Advance Decisions to Refuse Treatment/Advance Statements. 563 episodes in total identified 113 noted as multiple. Task and Finish Group established to audit these.</li> <li>Work is underway to update the Trust's form for recording decisions made in advance; the original form pre-dated the MCA and is no longer suitable for distinguishing between the formality of an Advance Decisions and the broader concept of wishes expressed in advance. A draft version of the form is currently being piloted in Learning Disabilities and in Acute Wards.</li> </ul>
3.2	Agree a rolling programme of Audits for Capacity Assessments and Best Interest Decisions.	Anita Winter / Julia Walsh / Zara Clarke	June 2017	BLUE	<ul style="list-style-type: none"> <li>4<sup>th</sup> iteration of audit report in situ with audit report to be shared by 31 May 2017.</li> <li>Audit report complete. Initial audit findings indicated that the current Capacity and Best Interests Decisions forms could be updated in order to support better practice and more focused recording. The Mental Capacity Act Assessment Form and Best Interests Record Forms have been amended as a result and uploaded onto the MCA page of the Intranet and both forms are available as word documents on Insight the availability of which has been publicised across the trust through a</li> </ul>

					<p>variety of routes.</p> <p>The audit confirmed that:</p> <ul style="list-style-type: none"> <li>• The Mental Capacity Act is not embedded in day to day practice such as in the recording of mental capacity assessments is not consistent and in line with the Mental Capacity Act Code of Practice.</li> <li>• Where a best interest discussion takes place because a client lacks capacity to make a decision, this should be recorded appropriately, but it was not being carried out as standard practice.</li> <li>• MCA/DoLS is identified as part of the trust's Annual Audit Programme.</li> <li>• Trainee Psychologist will undertake an audit of MCA and DoLS in Q3/4.</li> </ul>
3.3	<p>The Trust to establish a programme of audit around DoLS which may include audits around:</p> <ul style="list-style-type: none"> <li>- Availability of DoLS documentation in patient record</li> <li>- Quality of Form 1 &amp; Form 4s submitted</li> <li>- Implementation of conditions attached to authorisations</li> </ul>	Anita Winter /Julia Walsh/ Ronda Ninkovic	Timescale revised to May 2017	<b>YELLOW</b>	<ul style="list-style-type: none"> <li>• V1 draft audit tool presented for comments at Steering Group on 13/03/17.</li> <li>• V2 draft audit tool drafted.</li> <li>• V4 draft audit tool drafted.</li> <li>• V5 audit tool agreed at the Steering Group and now forms an Appendix to the DoLS Policy. Whilst the DoLS audit tool has been developed this is an untouched area, and now a priority area of work for the Steering Group to take place in quarter 3 and 4 2017/18. The programme of audit for DoLS will include:</li> </ul>

					<ul style="list-style-type: none"><li>• Availability of DoLS documentation in service user records</li><li>• Quality of Form 1 &amp; Form 4's submitted (these are the forms used to make applications for Deprivation of Liberty Authorisations)</li><li>• Implementation of conditions attached to authorisations.</li><li>• A trainee Psychologist will undertake the audit.</li></ul>
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#### SECTION 4 – SERVICE USER AND FAMILY CARER AWARENESS

NO	ACTION	LEAD	TIMESCALES	STATUS	UPDATE
4.1	Development/availability of guidance for clients and family carers.	Jane Lyon / Julia Walsh	March 2018	YELLOW	
4.2	Development and delivery of Awareness training.	Julia Walsh/ Karen Dickinson	March 2018	YELLOW	
4.3	Develop a plan of engagement.	Jane Lyon / Julia Walsh	August 2017	YELLOW	<p>The MCA/DoLS PDG session on the 4 July 2017 will be used to begin this discussion.</p> <p>Draft plan of engagement developed and scheduled for discussion and agreement at August 2017 Steering Group.</p> <p>Due to full agenda the draft plan of engagement was not signed off until final feedback was received at September 2017 Steering Group.</p> <p>An action plan has been developed as a result and focuses on the following key themes:</p> <ul style="list-style-type: none"> <li>• Development/availability of guidance for service users and family carers</li> <li>• Development and delivery of awareness training.</li> <li>• A Task and Finish Group will be established following the trust restructure with identified representatives from key areas to progress the action plan.</li> </ul>

## SECTION 5 – COMMUNICATION

NO	ACTION	LEAD	TIMESCALES	STATUS	UPDATE
5.1	Development and roll out of Insight Module.	Anita Winter / Cath Dixon	On-going	GREEN	<ul style="list-style-type: none"> <li>• March 2017 Session held to discuss 360 Audit suggestions for streamlining the proposed Insight form to make it as straightforward for staff to complete as possible. Suggestions considered and discounted.</li> <li>• April 2017 - The Insight form to record Capacity and consent has now been tested by key clinicians for its suitability and bugs in the system have been flagged. The report view is being finalised and we will move forward to pilot phase in May 2017.</li> <li>• Training sessions to support the pilot of the new Insight module for LD ATS and CLDT scheduled to take place during June/July 2017.</li> <li>• Training sessions for LD completed by 31 July 2017 with mop-up sessions.</li> <li>• Roll out plan underway – August 2017 confirmed bookings for Woodland View, Birch Avenue, and G1.</li> <li>• A Consent and Capacity Help Sheet has been developed to support staff - accessed via the Intranet &gt; ICT Dept &gt; See All &gt; Insight Help Sheets &gt;</li> <li>• A training programme is underway, and full roll-out across Trust scheduled for completion by 31 December 2017.</li> </ul>

5.2	Insight module roll-out plan to be developed and publicised across the trust.	Anita Winter/ Simon Robinson/ Directorate Leads	June 2017	<b>GREEN</b>	<ul style="list-style-type: none"> <li>• Directorate representatives requested at May 2017 Steering Group to identify team order of roll out.</li> <li>• Roll out plan underway with areas being updated on a month by month basis.</li> <li>• A 'live' pilot of the MCA Insight forms commenced on 20 September 2017 in Learning Disabilities: Assessment and Treatment Service (ATS), Community Learning Disability Team (CLDT) and the Community Intensive Support Service (CISS).</li> <li>• IT colleagues require 20-30 completed MCA forms to be completed in order to iron out any technical issues before further roll out. However, CERT will now be included in the 'live pilot' from October 2017 to speed up the testing process. The 'live' roll out across all trust areas is scheduled to be completed 31 January 2018.</li> </ul>
5.3	Each Directorate to develop local guidance on key pathways to support implementation of new Insight module.	All Steering Group Leads	April 2017 to August 2017	<b>YELLOW</b>	
	<p>Learning Disabilities:</p> <ul style="list-style-type: none"> <li>• S&amp;LT</li> <li>• Community Nursing</li> <li>• Psychology</li> <li>• Physiotherapy</li> <li>• OT</li> <li>• Clinical Allocation and Review Meeting</li> </ul>	Anita Winter & Zara Clarke (with local clinical leads)	May 2017	<b>BLUE</b>	<ul style="list-style-type: none"> <li>• Workshop sessions scheduled to take place with all professional groups during March 2017</li> <li>• LD met with professional groups (Community Nursing, S&amp;LT, and Psychology) to focus on agreeing key decision points for consent, capacity and best interests specifically around key pathways, for example, Head to Toe Assessments. Standard Operating Protocols have been developed as a result</li> <li>• LD has reviewed processes at the</li> </ul>

					<p>Clinical Allocation and Review Meeting for consideration and recording of Consent; Capacity and Best Interests Records.</p> <ul style="list-style-type: none"> <li>April LD met with Physiotherapy professional group to focus on agreeing key decision points for consent, capacity and best interests specifically around key pathways, for example, Head to Toe Assessments. Standard Operating Protocols have been developed as a result.</li> </ul>
	Specialist Directorate		Tony Bainbridge / Chris Woods	RED	
	Inpatient Directorate		Lorena Caine	BLUE	<ul style="list-style-type: none"> <li>Pathway agreed as established within the current CAT guidance.</li> </ul>
	Community Directorate		Paul Nicholson	RED	

## SECTION 6 – HUMAN RESOURCES

NO	ACTION	LEAD	TIMESCALES	STATUS	UPDATE
6.2	All staff to be made aware of the need to include MCA as a standing item in PDR's for all relevant staff. Consult with the PDR Team to develop appropriate prompt to incorporate into the Trust PDR Electronic Paperwork. E-mail <a href="mailto:PDR.Team@shsc.nhs.uk">PDR.Team@shsc.nhs.uk</a>	MCA Steering Group PDR Representative I.T Representative	Revised timescale to December 2016	RED	No progress made.  Since the introduction of the Work Plan there has been evidence of increased application of the Mental Capacity Act and it was agreed by Steering Group members that this action was no longer appropriate. However, a meeting is scheduled to be held in November 2017 with HR colleagues to discuss further.
6.3	Advertise changes to PDR paperwork through the MCA newsletter	MCA Steering Group	Revised timescale to December 2015	RED	No progress made.  Since the introduction of the Work Plan there has been evidence of increased application of the Mental Capacity Act and it was agreed by Steering Group members that this action was no longer appropriate. However, a meeting is scheduled to be held in November 2017 with HR colleagues to discuss further.

**SECTION 7 – GOVERNANCE**

<b>NO</b>	<b>ACTION</b>	<b>LEAD</b>	<b>TIMESCALES</b>	<b>STATUS</b>	<b>UPDATE</b>
7.1	Ensure the group takes responsibility for information monitoring and reporting on DoLS /MCA	MCA Steering Group	On-going	<b>BLUE</b>	<ul style="list-style-type: none"> <li>Monitoring of training data underway.</li> <li>Monitoring of training data standing agenda item at Steering Group.</li> <li>Feedback to the Steering Group on DoLS authorisation data commenced September 2017</li> </ul>
7.2	To develop a system where Power of Attorney issues are “flagged” on Insight.	MCA Steering Group, I.T & Information Governance	Timescale revised and carried forward to August 2017	<b>YELLOW</b>	<ul style="list-style-type: none"> <li>To consider including data on ‘Deputies’.</li> </ul>
7.4	The central register for DoLS application to be finalised and wards/ care homes to start updating it with all DoLS activity.	Anita Winter/Anne Cook	June 2017	<b>GREEN</b>	<ul style="list-style-type: none"> <li>To meet with MHA Office to discuss business support capacity to support register monitoring.</li> <li>Register finalised and up-to-date.</li> <li>The Steering Group established a system for recording all applications for DoLS made to the Supervisory Body at local level (Wards and Registered Care Homes) with central oversight from the Lead. In collaboration with the local DoLS Team, registers have been cleansed and updated.</li> <li>The registers for each area will now be held centrally, located on the datastore, with each local manager (and/or nominated deputy) making changes directly to this. These registers will be monitored by the Mental Health Act Office Commencing October 2017. Monitoring will include:</li> </ul>

					<ul style="list-style-type: none"> <li>• number of applications made by area</li> <li>• current status and renewal dates</li> <li>• conditions set and are these being met</li> </ul> <p>A priority area of work for the Steering Group in quarter 4 is to enable the trust to identify how many challenges to DoLS applications have been taken to the Court of Protection and to establish a clear and transparent process for the trust to follow.</p>
7.6	The register will be regularly reviewed to identify where granted authorisations are due to expire and, where appropriate, requests for reviews should be made to SCC.	Anita Winter/Anne Cook	On-going	<b>GREEN</b>	<ul style="list-style-type: none"> <li>• Dialogue with Directorates underway to agree protocol for regular review and update or register. Presently register is updated centrally.</li> <li>• The registers for each area will now be held centrally, located on the datastore, with each local manager (and/or nominated deputy) making changes directly to this. These registers will be monitored by the Mental Health Act Office Commencing October 2017.</li> </ul>
7.8	The figures above, along with the detail provided to the Trust MCA & DoLS Lead to be reviewed within each team to determine if there are more service users in respect of whom DoLS applications should be made.	Anita Winter /Anne Cook and MCA/DoLS Steering Group Divisional Representatives	30 April 2016	<b>GREEN</b>	<ul style="list-style-type: none"> <li>• Dialogue with Directorates underway to agree protocol for regular review and update or register.</li> <li>• The registers for each area will now be held centrally, located on the datastore, with each local manager (and/or nominated deputy) making changes directly to this. These registers will be monitored by the Mental Health Act Office Commencing October 2017.</li> </ul>

7.9	<p>Ensure regular reports are produced for the MCA DoLS Steering Group which cover:</p> <ul style="list-style-type: none"> <li>• The numbers of DoLS applications made from each area and the current status;</li> <li>• The results of any audits around DoLS;</li> <li>• Numbers of staff trained and feedback from training;</li> <li>• Updates on any legal challenges in respect of patients subject to DoLS;</li> </ul>	Anita Winter/Anne Cook	Monthly	<b>GREEN</b>	<ul style="list-style-type: none"> <li>• A programme of reporting has progressed commencing with staff training.</li> </ul>
7.10	<p>The MCA DoLS Steering Group to provide a quarterly update to EDG/Board or the Quality Committee which covers:</p> <ul style="list-style-type: none"> <li>• Number of DoLS applied for per quarter &amp; number authorised/not authorised</li> <li>• Delays in authorising DoLS (due to demands on SCC) and what the Trust is doing to mitigate risk of legal action</li> <li>• Training progress update (although senior committees receive Mandatory training update which shows DoLS level 1 and level 2 compliance)</li> <li>• Results of audits which monitor compliance with requirements of legislation and policy.</li> </ul> <p>The most recent iteration of the workplan should also be included.</p>	Anita Winter/Anne Cook	Monthly	<b>GREEN</b>	<p>Next quarterly report scheduled for submission in June 2017</p> <p>Mental Capacity Act and Deprivation of Liberty Steering Group Quarter 2 Report, July to September 2017 is scheduled for discussion at EDG on 16 November 2017.</p>

7.11	MCA: The 'form' within Insight to be rolled out to provide a consistent methodology for recording (we have provided some suggestions for streamlining the proposed form to make it as straightforward for staff to complete as possible).	Anita Winter	April 2017	<b>BLUE</b>	Auditor comments reviewed, considered and discounted by key leads.  No further action required.
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Anita Winter  
Service Director / MCA Lead

Updated March 2017 by Anita Winter on behalf of Steering Group  
 Update April 2017 by Anita winter on behalf of Steering Group  
 Update May 2017 by Anita Winter on behalf of Steering Group  
 Updated June 2017 by Anita Winter on behalf of Steering Group  
 Updated July 2017 by Anita Winter on behalf of Steering Group  
 Updated August 2017 by Anita Winter on behalf of Steering Group  
 Updated September 2017 by Anita Winter on behalf of Steering Group  
 Updated October 2017 by Anita Winter on behalf of Steering Group