

Liberty Protection Safeguards Preparation North Cumbria Integrated Care NHS Trust May 2022

1. The Deprivation of Liberty Safeguards (DoLS) were introduced in 2009 as an amendment to the Mental Capacity Act (MCA) 2005, to ensure that people who lacked capacity to consent to their care and treatment, and who were deprived of their liberty in a hospital or care home, had their rights protected by a legal framework and were given the legal right to challenge the deprivation. This legislation is due to be superseded by the Liberty Protection Safeguards at a date currently set at April 2022; however vital documentation to support the implementation (the Code of Practice) has not yet been published for consultation.
2. The Liberty Protection Safeguards (LPS) moves several responsibilities from the Local Authority to NHS trusts, where inpatient services are provided to patients who lack capacity and who may be deprived of their liberty. These responsibilities are related to assessing capacity; assessing the presence of a mental disorder; and assessing whether the arrangements are necessary to prevent harm to the cared-for person, and proportionate to the likelihood and seriousness of that harm.
3. The Code of Practice to the LPS was published as a draft document for extended consultation on 17th March, running until 7th July. The Government has stated that it will not provide a revised implementation date until after consideration of the responses to the consultation; it appears likely that there will be at least 6 months between the response to the consultation and the start date of LPS, to allow for organisations to prepare systems and train or recruit staff.
4. Prior to the draft Code being published, members of the Safeguarding team were attending free webinars from respected law firms around MCA and LPS. The clear message from all of these sessions was to ensure that MCA and DoLS practice was sound, as this would form the basis for good practice around LPS.
5. With respect to this, the Safeguarding Team were able to appoint a full time, fixed term Practice Educator for MCA and DoLS, using Health Education England monies. This post commenced in April 2021. The key achievements of this post have been;

TRAINING

- Offered training sessions on capacity and self neglect
- Completion of Best Interests Assessor qualification for the practice educator, and confirmation of the number of BIA's in the team
- Developed and implemented an enhanced training package to cover mandatory and extended MCA practice for wards and services across the Trust, in acute and community settings
 - o Advocacy services involved in training and support days, to better advertise the need for and use of statutory advocacy
- Enhanced support days offered for a range of inpatient wards
- Access and input to a range of training programmes (international nurses; international doctors; Speciality Doctors; Consultant meetings; students or preceptorship nurses) to embed MCA practice
- Improvement from e-learning only to face to face; combined with MCA and DoLS in the same training session; and made bespoke for the Trust with added information as to completion of the process and documentation.

SYSTEMS/RESOURCES

- Created a DoLS referral system which is embedded within a patient's electronic record, which automatically sends the referral to ASC and to the Safeguarding team
 - o This has been set up to include a range of mandatory questions; the form cannot be sent without these being completed.
- Engagement in the Trust's 'Improving Pathways for Patients Who Lack Consent' including an audit and improvement works on consent form 4 (pre surgery for those people who are assessed as lacking capacity)
- 'Top Tips' for completing MCA assessments and DoLS forms
- Learning needs analysis updated twice to ensure the right people are required to attend training

GOVERNANCE/AUDIT

- Understanding our position through audit – both internally and through the CSAB audits
- MCA policy updated in April 2021

OUTCOMES

- Increased understanding and awareness of DoLS actions and process, and increased the number of DoLS referrals being completed by the Trust by as much as 150%
- Feedback from the Local Authority indicates an improvement in the quality of DoLS forms through the new system
- Training rates increased from 58% MCA and 40% DoLS in Sept 2020 to a combined package completion rate of 83% in March 2022; meeting the Trust's compliance target of 80%.

6. The team have applied for further funding to continue the work of the MCA/DoLS practice educator.
7. With regards to the implementation of LPS, the Trust is aware that significant work is taking place at national and ICS level around LPS, including the creation of an Intercollegiate Document for Mental Capacity Act learning, similar to that used for safeguarding for adults and children. Also underway is the preparation of training resources and materials, although the scope, type of training and final details are unable to be clarified until the response to the consultation is completed. It is fully expected that there will need to be a significant degree of training offered within the Trust, possibly using the resources created nationally.
8. It is the Trust's understanding that there is significant work to be undertaken at ICS and national level in preparation areas such as funding, workforce, governance and interoperability between organisations. The Head of Safeguarding is attending the North East/Yorkshire/Cumbria footprint meetings and will be engaged in any of the work of that group. There are specific areas of focus set out for specific points of work across the country – for example one area is considering the implementation of the LPS for 16 and 17 year olds.
9. Furthermore, in the local area there are established inter-agency liaison meetings between NHS trusts, advocacy services, and the Local Authority, to agree implementation and transition plans – however, these sessions are currently unable to consider plans in detail.
10. Within the team, a permanent MCA Specialist Practitioner post is in the process of being approved – this post will undertake some of the implementation work for LPS once appointed, and act as a practitioner lead for case work.
11. The next steps for considering LPS implementation are as follows;

PRACTICE EDUCATOR

- Update self-neglect training pack
- MCA competency framework and workbook
- Further systems development
- Communication to staff via ward visits to promote Top Tips and use of WebV
- Enhanced training for staff involved in discharge arrangements, and the Enhanced Care Team
- Medical staff training to continue
- Re-visit all wards to review DoLS process, there is still confusion re timescales for DoLS
- Develop “bite size” session on assessing capacity and undertaking best interest processes – both still require much improvement within NCIC
- ‘How to’ guides to be updated or created for DoLS, capacity assessments and best interests

SAFEGUARDING TEAM

- Continued attendance at both regional, local and national (where appropriate) NHS and local partner, Cumbria-wide implementation sessions
- Scoping of cases who might be considered to be objecting (this will allow consideration of the prospective workload for AMCP's, who are required to review all 'objecting' cases)
- Benchmarking of training – from initial discussions with other areas, it appears that our training offer is both well embedded and made mandatory at an appropriate level
- Continued attendance at relevant training events to share learning regarding the draft Code of Practice and its implications.
- Consider a Memorandum of Understanding between the Local Authority and Trust with regards to current BIA's shadowing and/or offering some assessments for DoLS. This may allow some training and update to be more rapidly shared and embedded.
- Complete the 'LPS readiness tool' – to be sent from NHSE staff

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