

NOVEMBER 2008

MCA DOLS NEWS

This is the second edition of the MCA DOLS News, an e-bulletin from the Mental Capacity Act 2005 Deprivation of Liberty Safeguards (MCA DOLS) Project.

To contribute ideas or suggestions for the next MCA DOLS News, please contact Kate Hardy at kate.hardy@dh.gsi.gov.uk

If you no longer wish to remain on the MCA DOLS mailing list, please contact kate.hardy@dh.gsi.gov.uk with “unsubscribe” in the subject line.

To contribute to discussions on any of the items/issues raised below, or post questions: e mail dols@dh.gsi.gov.uk

1.	News.....	2
	Transitional Arrangements for the MCA DOLS.....	2
2.	Training and Implementation.....	3
	Implementation Q & A.....	3
	Training for Assessors and IMCAs.....	3
3.	Standard Forms.....	3
4.	Communications.....	4
	The MCA DOLS Briefing Sheet.....	4
	Regional Leads.....	5
5.	Monitoring.....	5

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1. News

Transitional Arrangements for the MCA DOLS

The new MCA DOLS system is likely to produce an initial peak of applications for authorisation.

Due to a cautious approach about what constitutes 'deprivation of liberty' (DOL), there may be more applications in the initial phase from care homes and hospitals than are actually warranted.

On the date when the MCA DOLS commence, there will be the need to assess not only new DOL cases but also all those currently in care homes or hospitals who are identified as at risk of DOL. There might therefore be a significant number of cases for supervisory bodies to deal with in the early days of the new arrangements.

This anticipated peak of assessment work may prove hard to manage without some form of transitional arrangements in place to ease the administrative burden and the demands made on the professionals required to deliver the authorisation process.

Following discussions and endorsement by internal and external stakeholders, the following measures have been introduced:

- Transitional arrangements will operate during an initial period of one month
- The transitional arrangements will provide for the procedures for requesting standard authorisations and giving urgent authorisations to commence simultaneously
- During the period of operation of transitional arrangements, urgent authorisations should be effective for a period of 21 days rather than the usual 7 days (as provided for in paragraph 78(2) of Schedule A1 to the Mental Capacity Act 2005)
- During the period of operation of transitional arrangements, the timeframe for assessment for standard authorisations should be 42 days, twice the usual 21 day period that is provided for in regulations

The plan is that phased implementation would begin at the 'go live' of the MCA DOLS in April 2009 with full commencement in early May 2009.

As from April 2009, care homes and hospitals would be required to apply for authorisations. Transitional arrangements would be in place for one month that allow for an extension of the timescale for standard authorisation assessments from 21 to 42 days; or from 7 to 21 days where a urgent authorisation has been given.

http://www.dh.gov.uk/en/SocialCare/Deliveringadultsocialcare/MentalCapacity/MentalCapacityActDeprivationofLibertySafeguards/DH_087830

2. Training and Implementation

Implementation Q & A

An initial implementation Q&A, including commissioning questions, was placed on the DH website last month. It will be updated over the coming months.

<http://www.dh.gov.uk/en/SocialCare/Deliveringadultsocialcare/MentalCapacity/MentalCapacityActDeprivationofLibertySafeguards/index.htm>

If you have any further implementation questions, please don't hesitate to ask. The best way of guaranteeing a swift response is to use our dedicated web pages where you can post all your implementation questions at: dols@dh.qsi.gov.uk

Training for Assessors and IMCAs

Updated information about best interests and mental health assessor training was placed on the DH website in early November.

http://www.dh.gov.uk/en/SocialCare/Deliveringadultsocialcare/MentalCapacity/MentalCapacityActDeprivationofLibertySafeguards/DH_084948

and is also available at:

<http://www.rcpsych.ac.uk/clinicalservicestandards/educationandtrainingcentre/courses/legal/dols.aspx>

Information about Independent Mental Capacity Advocate training is available at:

<http://www.dh.gov.uk/en/SocialCare/Deliveringadultsocialcare/MentalCapacity/MentalCapacityActDeprivationofLibertySafeguards/index.htm>

and:

<http://www.actionforadvocacy.org.uk/articleServlet?action=display&article=1486&articletype=38>

3. Standard Forms

Draft versions of the standard forms for managing authorities and supervisory bodies have been uploaded on the MCA DOLS web pages. It is important to note that these forms are going through the final editorial process and this draft version should only be used for training, briefing and information and organisational planning purposes and not for completing an MCA DOLS application.

The final versions will also appear on our website and subscribers to this newsletter will be notified when it appears. The use of these standard forms is recommended. Appropriate use of these standard forms will support managing authorities and supervisory bodies in administering the MCA DOLS processes and fulfilling their statutory record-keeping obligations.

The draft standard forms for supervisory bodies and managing authorities can be accessed at:

http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_089772

4. Communications

DH communications have two strands for those involved in delivering and administering the MCA DOLS:

- providing training and materials to professionals with a statutory role i.e. mental health assessors; best interests assessors and IMCAs and
- providing briefing and information whether face to face or through a suite of communications products to staff involved in administering the safeguards i.e. care homes and hospitals (designated as 'managing authorities) and local authorities and PCTs (designated as 'supervisory bodies')

The Code of Practice is the primary vehicle for communication. Links to the Code can be found on the dedicated DOLS web pages at:

http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_085476

The Code will be supplemented by a series of booklets:

- guidance for managing authorities
- guidance for supervisory bodies
- guidance for relevant person's representatives and
- guidance about IMCAs.

There will be a limited print run of these booklets (which will also be available for download from the MCA DOLS web pages on publication).

Managing authorities are required, by statute, to provide information to the relevant person and their families, friends and carers to explain their rights and entitlements under the MCA DOLS. DH will be producing an information leaflet and information in a variety of assistive formats for people likely to come within the scope of MCA DOLS.

DH will also be distributing a series of leaflets to care homes and hospitals alerting them to the MCA DOLS and to their roles and responsibilities. Currently, three mail outs to all hospitals and care homes are planned, a general information leaflet; a note advertising the supplementary guidance for managing authorities and a package of standard forms recommending their use.

The DOLS briefing sheet

The briefing sheet containing a summary of the MCA DOLS has recently been updated. The new version replaces the earlier version at:

http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_080718

Regional Leads

Some contact details for our regional MCA DOLS leads have changed. You may wish to update your records accordingly.

Region	E-mail Contact Details	Mobile
Yorkshire and Humber	Bruce.Bradshaw@nimheneyh.nhs.uk	07940 361 335
North East	Pat.Stewart@csip.org.uk	07799 343 356
North West	christine.hutchinson@csip.org.uk	07500 228 654
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South West	David.Pennington@csip.org.uk	07799 627 244
West Midlands	Ralph.Hall@csip.org.uk	07825 402 599

5. Monitoring

The consultation on the monitoring regulations will now start in December this year. You will have an opportunity to contribute to the development of the regulations as part of this formal process. Monitoring plans and a link to the consultation will be the subject of a separate newsletter early next month.