



# Mental Capacity Act

(Northern Ireland) 2016

## MCA DoLS Update – November 2021

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### 1. Trust MCA Contact Details

|               |  |
|---------------|--|
| Belfast       | <a href="mailto:MCABelfast@belfasttrust.hscni.net">MCABelfast@belfasttrust.hscni.net</a> |
| Northern      | <a href="mailto:MCA.NHSCT@northerntrust.hscni.net">MCA.NHSCT@northerntrust.hscni.net</a> |
| South Eastern | <a href="mailto:MCAsetrust@setrust.hscni.net">MCAsetrust@setrust.hscni.net</a>           |
| Southern      | <a href="mailto:MCA.SHSCT@southerntrust.hscni.net">MCA.SHSCT@southerntrust.hscni.net</a> |
| Western       | <a href="mailto:MCA.WHSCT@westerntrust.hscni.net">MCA.WHSCT@westerntrust.hscni.net</a>   |

### 2. Regional DoL Statistics (Inc. live updates) – Cumulative (Dec 2019 to Sept 2021)

| Trust         | Trust Panel DoL Applications | Extension Authorisations | Live TP / Extension Cases (at Oct 2021) | Short Term Detention Authorisations | Live Short Term Detentions (at Oct 2021) |
|---------------|------------------------------|--------------------------|---|-------------------------------------|--|
| Belfast       | 1170                         | 242                      | 506                                     | 186                                 | 4  |
| Northern      | 1540                         | 1052                     | 867                                     | 259                                 | 9  |
| South Eastern | 1649                         | 642                      | 1086                                    | 260                                 | 9  |
| Southern      | 1052                         | 319                      | 659                                     | 288                                 | 1  |
| Western       | 955                          | 244                      | 439                                     | 29                                  | 4  |
| Total         | 6366                         | 2499                     | 3557                                    | 1022                                | 27                                       |

### 3. Regional Legacy Cases (comparison from May 2021)

| Trust         | Outstanding Legacy Cases (end of May 2021) | Outstanding Legacy Cases (end of October 2021)* |
|---------------|--|---|
| Belfast       | 800  | 0   |
| Northern      | 35   | 0   |
| South Eastern | 391  | 126   |
| Southern      | 1056                                       | 326   |
| Western       | 408  | 186   |
| Total         | 2690                                       | 638   |

\* Trusts have confirmed that emergency measures are in place for all outstanding legacy cases.

### 4. Training

In April 2022, England will be replacing their Deprivation of Liberty Safeguards with the new Liberty Protection Safeguards (LPS). The following LPS conferences may be of interest:

- [‘From DoLS to LPS – Managing the Interim’](#) (multiple sessions)
- [‘Moving from DoLS to LPS’](#) (3 December 2021)

The Department’s MCA team can be contacted at:

[mcaimplementation@health-ni.gov.uk](mailto:mcaimplementation@health-ni.gov.uk)

Additional information is available at [Mental Capacity Act | Department of Health \(health-ni.gov.uk\)](#)

### 5. Latest Developments

Extra funding – In November, DoH allocated an additional £20k to each Trust to support DoLS implementation. The money will be used to address training needs and related support as identified by the MCA implementation lead in each Trust.

Mandatory Training – work is ongoing to update and consolidate the Department’s mandatory DoLS training ([Mental Capacity Act Training | Department of Health \(health-ni.gov.uk\)](#)). It is anticipated that it will be available on the DoH website early in 2022. Trusts will also continue to provide additional training as set out in the Maintaining Competence and Confidence paper [\[link\]](#).



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The following questions were asked at a recent NISCC lunchtime seminar. Additional FAQs can be found at [Mental Capacity Act FAQs | Department of Health \(health-ni.gov.uk\)](https://www.health-ni.gov.uk/mental-capacity-act-faqs) which is updated regularly. If you have any queries you would like addressed please contact the MCA lead in your Trust.

**Is there guidance/training for Responsible Persons with providers in the independent sector and their discharge of their duties (Form 15)?**

Independent sector staff can access the mandatory training on the DoH website. Equally they can approach the Trust Implementation Leads if they need support with additional training.

**Across the legislation it uses the term “immediately”. Trusts are telling staff “immediately” cannot be met in acute hospital & as such there is a 48hour window for medic to complete the Form 11 yet authoriser has completed form 8. Where did this timeframe of 48 hours come from & where do Social Workers sit with liability on those occasions?**

The 48 hours referenced in the question refers specifically to the Form 12 Further Admission Report completed – i.e. if the Form 11 Admission Report has not been completed by the responsible medical practitioner/alternative medical practitioner. In these instances the Form 12 is required within 48 hours. The Form 11 states this at the bottom and this timescale is further referenced on p.66 of the Code of Practice (CoP). There is a section detailing reports during a short-term detention for examination or examination followed by treatment or care, including timescales, on p.73 CoP. If the DoL process has commenced the protection from liability is already in situ.

**What are the expectations regarding the provision of 'evidence' in supporting assessments, i.e. actual risk as opposed to concerns? Is there staff guidance to inform and assist staff?**

This is covered in the Prevention of Serious Harm (PoSH) training and also in the flow chart – the Risk Matrix which guides staff to consider both likelihood and harm, which is also covered in the training.

**Is a new care plan always required for an Extension of an Order?**

No, a new care plan is only required if the patient’s needs have changed. The original care plan can be resubmitted with a statement typed on it that there are no changes.

**The number of currently live Short-Term Detention orders trust wide seems a low number (19 – August 2021): is this only acute hospital numbers?**

Due to the unprecedented pressures on acute hospitals during to the Covid-19 surge – where there is reasonable belief that a service user requires a deprivation of liberty under the Mental Capacity Act (NI) 2016 but it is not practicably possible to put all safeguards in place, and waiting until a full Short-Term Detention is authorised would create an unacceptable risk of harm, Trusts are relying on the emergency provisions under the Act. These figures are not captured in the earlier table – only full authorisations at that point in time (19 live full authorisations as at the end of August) are captured.

**The direction on spending time with the individual on helping them understand Rule 7 and that a legal representative could be involved is very welcome, this however, will this mean more demands on the worker's time and capacity?**

As this is discussed as part of the overall capacity assessment the additional time is small, generally approximately 10 minutes.