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Mental Capacity Act / Deprivation of Liberty Safeguards Implementation

Dear MCA Reference Group member,

I am writing to you in relation to the implementation of the Mental Capacity Act (Northern Ireland) 2016. As you may be aware, the Department of Health and the Department of Justice have agreed to commence the Mental Capacity Act for the purpose of providing a statutory framework in relation to the deprivation of liberty, research and money and valuables in residential care and nursing homes.

Delay in commencement

The Deprivation of Liberty Safeguards (DoLS) form a statutory framework which will allow for authorising a deprivation of liberty if certain conditions are met. The relevant legislation was made and due to come into operation on 1 October 2019.

Depriving someone of their liberty is a very serious matter so it is vital that, in the interests of both those being deprived of their liberty and those carrying out the deprivation of liberty, the new DoLS process is implemented well.

Through engagement with a number of key stakeholders, including the HSC Trusts, it has become clear that the DoLS processes across the region would not be sufficiently developed to meet the requirements as set out in legislation by 1 October 2019.

Therefore, the decision has been taken to delay commencement for the deprivation of liberty, offences and money and valuables provisions until **Monday 2 December 2019**.

The Act must be commenced by this date in order to properly address the issue of appropriate authorisations for depriving people of their liberty.

The two month delay has been agreed in order to:

- allow more time for HSC and independent sector staff to complete the required training in advance of DoLS coming into operation;
- allow Trusts to finish recruiting key professional staff to panels;
- allow Trusts to test their new processes ahead of the operation date; and

- allow more time for further communication and engagement between Trusts, care homes, GPs and others in relation to the new DoLS procedures.

I am aware that you may have been preparing your organisation, staff and systems for commencement on 1 October and apologise for any disruption this may cause. I hope that the delayed commencement will provide you with time to ensure your organisation and staff are ready for the implementation on 2 December.

Resources and training

The responsibility for carrying out assessments and applying for authorisations will rest with the HSC Trusts. However, other organisations that host persons that are deprived of liberty must be sure that authorisations are in place for the persons in their care; otherwise they will act unlawfully.

A dedicated Mental Capacity Act website has been developed to support you and is available at – www.health-ni.gov.uk/mca

The MCA website provides:

- background to the MCA,
- links to relevant legislation,
- details on how to access training (provided free of charge until mid-December 2019),
- a Code of Practice providing practical information for how the Act works,
- the relevant Forms required to be used under the new DoLS process,
- a scenarios document, and
- an information leaflet (an Easy Read version of this is also provided).

The MCA website will develop over time and more information will be added as it becomes available.

If you require any further information on deprivation of liberty, or the wider issue of the Mental Capacity Act, please don't hesitate to get in touch. The initial point of contact for any queries is: MCImplementation@health-ni.gov.uk

The next edition of the MCA newsletter will be issued in the coming weeks.

Yours faithfully,



Tomas Adell
Head of DoH Mental Health and Capacity Unit