

ABM University Health Board	
Date of Meeting: 08/02/2018 Name of Meeting: Mental Health & Mental Capacity Act Legislative Committee Agenda item: 5.1	
Subject	Deprivation of Liberty Safeguards (DoLS) Processes Update
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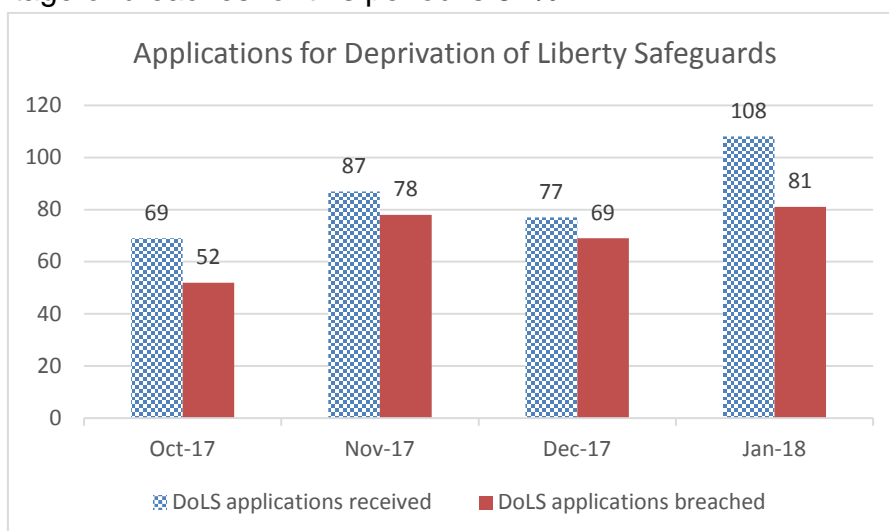
1.0 Situation

This report is to provide the Committee with an update in relation to The Deprivation of Liberty Safeguard Process.

2.0 Background

The Health Board continues to experience a large number of Deprivation of Liberty Safeguard applications and the management of these applications remains a significant issue for the Health Board. For the period 1st April 2017 to 30th January 2018, a total of 852 DoLS applications were received; 691 of those applications breached timescales.

As of 31st January 2018, the accumulated total of outstanding Deprivation of Liberty Safeguards cases was 166; some of these cases will not breach as work is still in progress. A snapshot of 4 months (see table below), October 2017 to January 2018 records 341 DoLS applications were received, 280 of those breached timescales. The percentage of breaches for this period is 82%.



3.0 Assessment

Signatories

To address any delays, caused by the Supervisory Body (Primary and Community Services Unit) being unable to scrutinise and sign off Deprivation of Liberty Safeguards authorisations within the legal time frame, a training session was initiated for additional Supervisory Body signatories. This took place on 22nd January 2018 in Swansea University and the Health Board have now increased their signatories from 3 to 7.

With the implementation of the above, it is anticipated that the breaches should significantly reduce within the next 6 months.

At the Primary Care Performance Review it was agreed that the Supervisory Body would produce a DoLS Improvement Plan which will be presented at the next Safeguarding Committee, 21st March 2018.

Best Interest Assessors (BIA)

The Health Board currently has 34 trained Best Interest Assessors on the register. Of these Health Board assessors, only 4 have undertaken Deprivation of Liberty Safeguards assessments during the past year. This has been due to the difficulties with releasing staff to undertake these assessments. Independent Best Interest Assessors have been commissioned to meet the shortfall, however this has a cost implication.

To address the shortfall, additional BIA training was delivered twice during 2017 which increased the number of Health Board BIAs. However, some of these are still unable to undertake assessments as they have not yet shadowed an established Best Interest Assessor. To ensure there are adequate shadowing opportunities, Independent Best Interest Assessors, Local Authorities and neighbouring Health Boards have agreed to support Health Board staff in shadowing their Best Interest Assessors. However it is imperative that these individuals are released from the workplace to shadow. Therefore the Service Delivery Units have been requested to prioritise this and this is being monitored by the Corporate Safeguarding Team on a weekly basis. In order to address Managing Authority delays, a DoLS Improvement and Support Group has also been established, with attendees representing all SDUs and Corporate Safeguarding Team.

The Supervisory Body have a responsibility to ensure that sufficient Best Interest Assessors are available and are in the process of establishing a BIA rota with support from the Corporate Safeguarding Team. This rota will be presented to the Safeguarding Committee 21st March 2018.

The BIA training, although not accredited, is delivered by Senior Law Lecturers from University of Wales, Swansea and this together with the additional shadowing provides assurance that the BIAs will be suitably competent. Furthermore established BIAs are updated annually with current case law by University of Wales Swansea. The most recent session was 30th January 2018 with good attendances from both Health and Social Services Best Interest Assessors.

Risk Register

Deprivation of Liberty Safeguards has been added to the Corporate Risk Register. This is with regard to the Health Board's current inability to complete DoLS authorisations in a timely manner. If the Health Board is unable to complete DoLS Authorisation in a timely manner then the Health Board will be in breach of legislation and claims may be received in this respect. All breaches are reported by the Service Delivery Units within an exception report on a bi-monthly basis to the Safeguarding Committee.

The current score on the risk register is 16. With the current processes put in place to support the implementation of DoLS, the expected outcome should be a reduced score of 12 and this is anticipated to be by July 2018.

Law Commission Report

The most significant reason for breaches are due to delays which often result from a very complicated and lengthy process, which has been recognised on a national level. During 2017 the Law Commission recommended that the Deprivation of Liberty Safeguards process is repealed and replaced by a new scheme called the Liberty Protection Safeguards, which would streamline the process for approving a deprivation of liberty. The Government have consulted with stakeholders to understand how these changes can be implemented and a final response is expected Spring 2018. A link to the report can be found below.

Link to report:

https://s3-eu-west-2.amazonaws.com/lawcom-prod-storage-11jsxou24uy7q/uploads/2017/03/lc372_mental_capacity.pdf

4.0 Recommendations

The Committee is requested to consider the profile of improvement and risk mitigation outlined within the report and is requested to note that when a breach position is reached this will be reported within an exception report.