

ABM University Health Board	
Date of Meeting: 10th May 2018 Name of Meeting: Mental Health Legislation Committee Agenda item: 3a	
Subject	Mental Capacity Act 2005 Update
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1.0 Situation

The Mental Health and Capacity Act Legislative Committee has requested a monitoring report to assure the Board of ABMU HB's compliance with the Mental Capacity Act 2005.

2.0 Background

The Mental Capacity Act 2005 (MCA) came into force in October 2007 but was amended to include the Deprivation of Liberty Safeguards (DoLS) in April 2009.

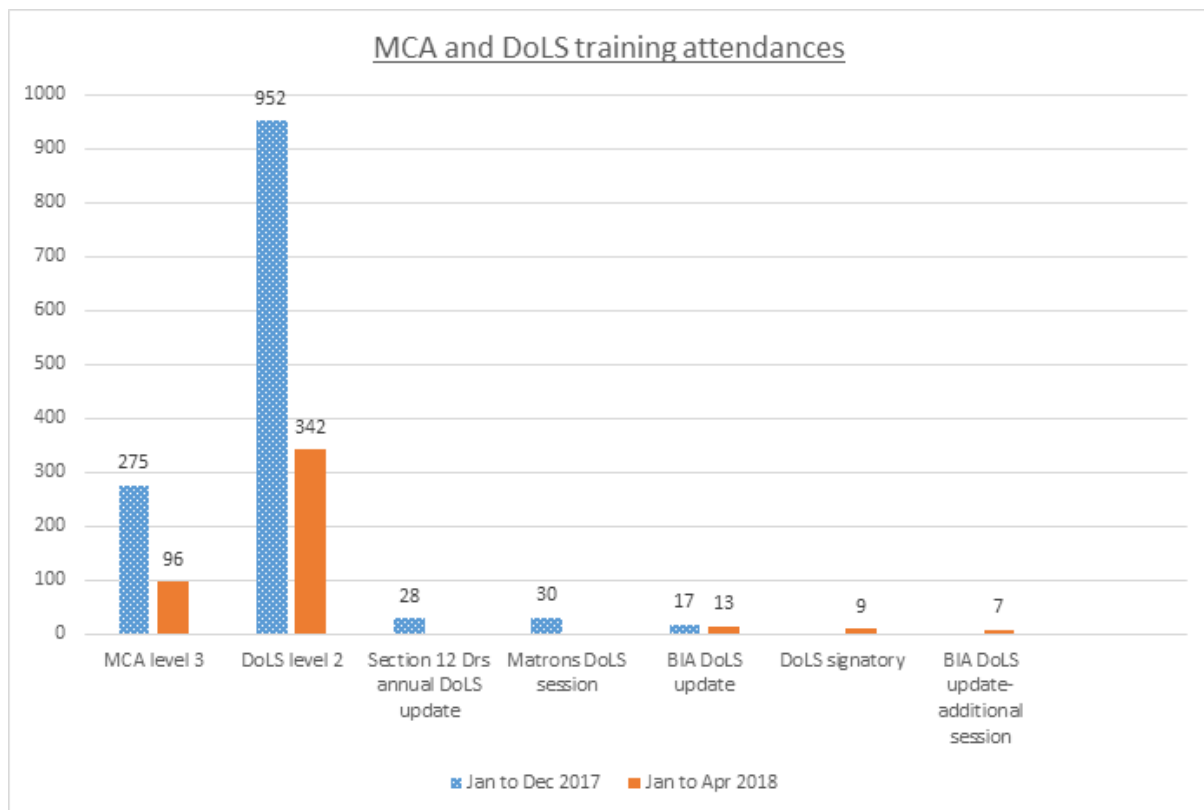
The HB supports a significant number of patients with impaired decision making, therefore this report aims to provide assurance of awareness and the use of MCA throughout the health board. For example training and the use of the Independent Mental Capacity Advocacy Service (IMCAs)

3.0 Assessment

3.1 MCA Training

There is an on-going training programme for staff with MCA Level 1 & 2 available on e-learning for all ABMU HB staff. Compliance figures should be available from ESR but currently there is an on-going issue obtaining these, with work on-going to ensure a single electronic recording, monitoring and reporting point that is available in the health board. The Service Delivery Units are monitoring training levels as part of their overall training compliance. MCA level 3 is taught as a workshop directed at ward managers, senior nurses and senior clinicians whereby there is the ability to discuss cases and raise concerns. This training is delivered under the educational contract by the University of Wales law lecturers once a month across HB sites.

Table 1
MCA/DoLS training breakdown below for Jan to Dec 2017 and Jan to April 2018



The graph above also identifies other forms of training associated with the Mental Capacity Act. This training is delivered to both the health board and the three Local Authorities. However table 1 only illustrates health board attendances. Attendance at all the levels of training remain consistent. Further analysis will be available within future reporting to identify further opportunities to maximise attendance.

3.2 Independent Mental Capacity Advocates (IMCA)

IMCAs are independent advocates who represent patients/people who lack capacity in order to support them in making important decisions. They were introduced by the Mental Capacity Act to act as a person's legal safeguard. They are usually instructed when there is no other independent person to act, such as a relative or friend. The IMCA Service that is currently contracted to the HB is provided by Mental Health Matters Wales. This service provides quarterly reports to ABMU HB. During 2017-18 reporting period they received 72 instructions for an IMCA from the HB.

Table 2: Breakdown of reasons for instruction of an IMCA

Local Area	Serious Medical Treatment	Long term move of accommodation	Care Review	POVA	39a*	39c*	39d*
Bridgend	4	9	2	0	3	0	5
Swansea	7	16	1	1	1	0	2
Neath/Port Talbot	0	14	2	1	0	2	2
TOTAL	11	39	5	2	4	2	9

* These different categories are, when a person who is deprived of their liberty, does not have a representative eg a friend, family member or advocate

3.3 Best Interest Decisions

If a patient has been assessed as lacking in capacity then any action taken or decision made on behalf of that individual must be made in his or her best interests. There are many factors within the MCA to consider in deciding what is in a person's best interests. It is good professional practice to record these particularly as these decisions may be challenged. These best interest decisions happen on a frequent basis and can vary from simple to very complicated. Currently the Corporate Safeguarding Team (CST) do not centrally collate the number of occasions where best interest decisions are made. The CST is working with the Service Delivery Units (SDUs) to establish an effective way to provide overall assurance with reporting through to the safeguarding Committee.

3.4 Court of Protection

The Court of Protection is a key decision making component of the Mental Capacity Act and has jurisdiction over property, financial affairs and the welfare of people who lack capacity. It has the same powers, rights, privileges and authority as the High Court. The HB CST are working towards a process where Court of Protection cases involving ABMU HB are engaged as a party are formally logged with any learning from judgements identified and disseminated.

With regard to points **3.3** & **3.4** The Corporate Safeguarding Team are developing a template for Best Interest meetings and Court of Protection cases. Both these issues will be reported in future reports.

4.0 RECOMMENDATIONS

The Committee is requested to acknowledge this report and to consider the proposed methods of assurance for future reporting.