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Health Board



Meeting Date	May 2019	Agenda Item	4.c
Meeting	Mental Health and Mental Capacity Act Legislative Committee		
Report Title	<b>Deprivation of Liberty Safeguards (DoLS) Process Update</b>		
Report Author	Jason Crowl, Nurse Director, Primary and Community Service Delivery Unit		
Report Sponsor	Cathy Dowling, Interim Deputy Director of Nursing and Patient Experience		
Presented by	Gareth Howells, Director of Nursing & Patient Experience		
Freedom of Information	Open		
Purpose of the Report	This report is to provide the Committee with an update in relation to the Deprivation of Liberty Safeguard (DoLS) Process.		
Key Issues	<ul style="list-style-type: none"> <li>Internal Audit will be repeated in May 2019</li> <li>A review into the reasons why delays occur in the system has been undertaken resulting in a clearer understanding of the underlying causes.</li> <li>The Supervisory Body (Primary Care &amp; Community Services Delivery Unit) is taking a lead role in managing the implementation of the DoLS improvement plan.</li> <li>Managing Authorities (Singleton, Morriston, Neath Port Talbot, POW, Gorseinon and Maesteg, Mental Health &amp; Learning Disabilities Service Delivery Units) will be working to address some of the issues which lead to delays.</li> </ul> <p>The actions to address the issues are detailed within this report.</p>		
Specific Action Required (please ✓ one only)	Information	Discussion	Assurance
			✓
Recommendations	The Committee is requested to note the continued profile of improvement and risk mitigation outlined within the report.		

# **DEPRIVATION OF LIBERTY SAFEGUARDS (DOLS) SUPERVISORY BODY UPDATE**

## **1. INTRODUCTION**

This report is to provide the Committee with an update on the Deprivation of Liberty Safeguard (DoLS) Process.

## **2. BACKGROUND**

The Mental Capacity Act Deprivation of Liberty Safeguards provides a legal framework to protect **vulnerable adults**, who may become, or are being deprived of their liberty in a **care home or hospital setting**. These safeguards are for people who lack capacity to decide where they need to reside to receive treatment and/or care and need to be deprived of their liberty, in their **best interests**, otherwise than under the Mental Health Act 1983 (MCA Code of Practice). The safeguards came into force in Wales and England on the 1<sup>st</sup> April 2009.

Every effort should be made, in both commissioning and providing care or treatment, to prevent deprivation of liberty. If deprivation of liberty cannot be avoided, it should be for no longer than is necessary.

The safeguards provide for deprivation of liberty to be made lawful through 'standard' or 'urgent' authorisation processes. These processes are designed to prevent arbitrary decisions to deprive a person of liberty and give a right to challenge deprivation of liberty authorisations.

The deprivation of liberty safeguards mean that a 'managing authority' must seek authorisation from a 'supervisory body' in order to be able lawfully to deprive someone of their liberty. Before giving such an authorisation, the supervisory body must be satisfied that the person has a mental disorder and lacks capacity to decide about their residence or treatment.

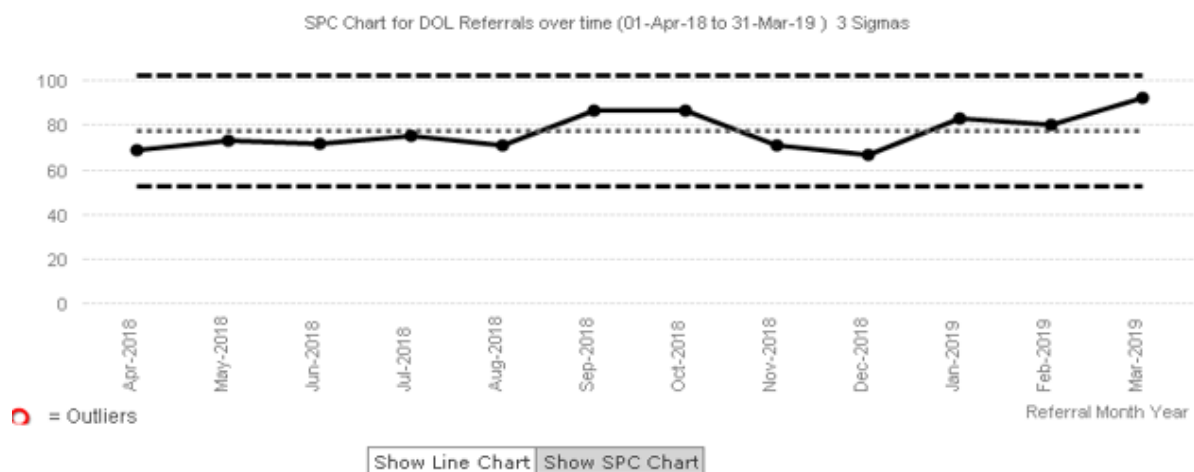
A decision as to whether or not deprivation of liberty arises will depend on all the circumstances. It is neither necessary nor appropriate to apply for a deprivation of liberty authorisation for everyone who is in hospital or a care home simply because

the person concerned lacks capacity to decide whether or not they should be there. In deciding whether or not an application is necessary, a managing authority should carefully consider whether any restrictions that are, or will be, needed to provide ongoing care or treatment amount to a deprivation of liberty when looked at together.

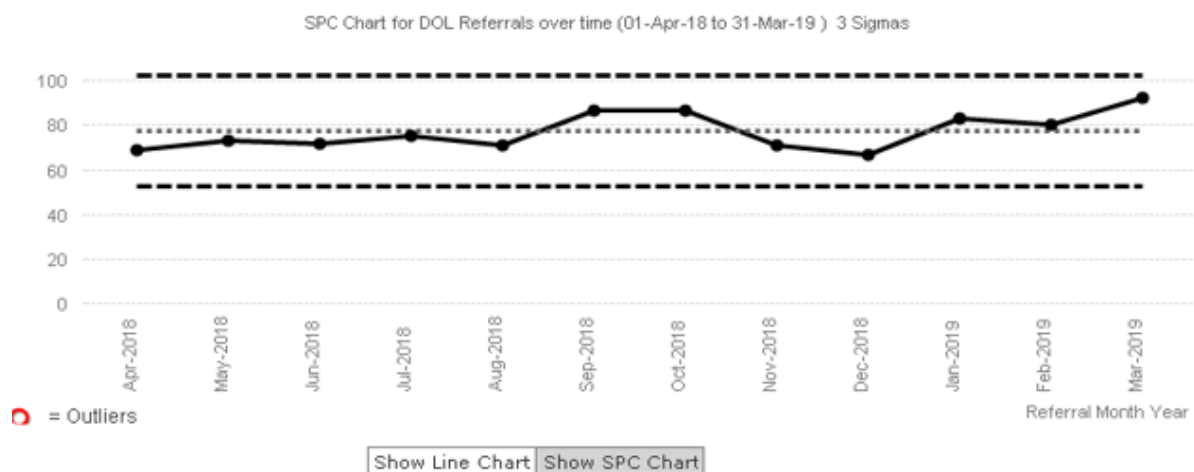
The Health Board has a statutory responsibility to ensure patients under its care can be assessed within agreed time scales

### 3. ACTIVITY REPORT

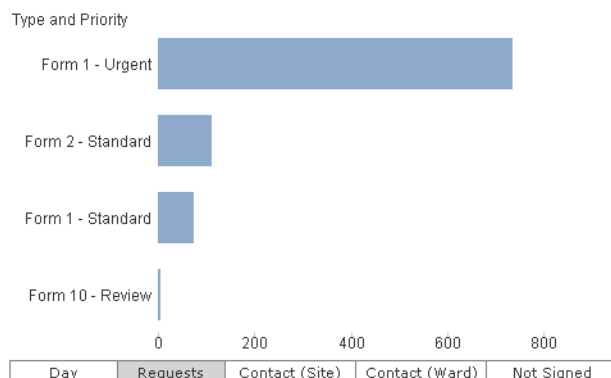
In the 12 month period 1<sup>st</sup> April to 31<sup>st</sup> March there were 927 referrals. 398 were refused and 508 were granted. Referral numbers have broadly remained the same through the year.



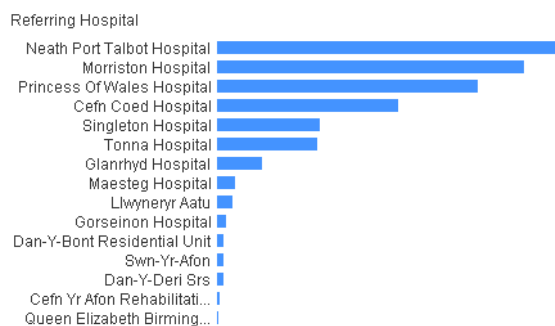
There 233 were signed off by the Supervisory Body within time scale which remained a challenge through the 2018/19 period.



735 referrals were for Urgent which requires sign off in 7 days and 186 were for standard referrals which requires sign off in 21 days.



Neath Port Talbot Hospital had the highest number of referrals and would be a significant referrer for the size of hospital.



#### 4. SUPERVISORY BODY TRANSFORMATION PLAN

The Supervisory Body (Primary Care and Community SDU) has developed transformation plan with timescales to improve performance in the DoLS process with the following key aims:

- Create a dedicated DoLS Team to discharge the duties of the Supervisory Body
- Reduce unnecessary referrals for DoLS
- Implement a referral prioritisation tool
- Strengthen compliance by Managing Authorities with conditions and recommendations
- Safeguard the Deprivation of Liberty Standards.
- Complete actions required under Internal Audit

To deliver these aims the following actions were delivered in Quarter 4

- Working through the Internal Audit Action Plan in partnership with Safeguarding Team and all Managing Authorities;
- Completed visits planned with high referral teams to discuss referral threshold;
- Completed review of DoLS training needs;
- To strengthen the performance and governance of the Best Interest Assessors (BIA) role, two Band 6 BIA posts and a dedicated Band 4 DoLS service administrator came into post on the 1<sup>st</sup> April 2019;
- Developing BIA bank role under Health Board bank arrangements;
- Implemented the dedicated DoLS Dashboard which will provide real time performance activity relating to the Managing Authorities (All Health Board Service Delivery Units) and the Supervisory Body.
- Established a benchmarking arrangement with other HB DoLS Team.
- Evaluated reasons for non authorisation.
- Developed a BIA Service level Agreement for contracted BIA ;
- Revised All Wales referral Prioritisation Tool for implementation across SBHB

### **Planned work for Quarter 1**

The following planned work has commenced for Quarter 1

- Support Internal Audit with the reaudit of the DoLS process
- Implement new process for the Supervisory Body to gain assurance that the Managing Authority are managing DoLS conditions and recommendations made by BIA.
- BIA to provide awareness sessions at Unit Sisters Meetings
- BIA to support sites with awareness building, targeting high referral sites first
- Implement the Referral Prioritisation Tool
- Implement full NHS Bank BIA role
- Support Managing Authorities in the development of appropriate care plans

## Bridgend Boundary Change

Bridgend Boundary change occurred at the end of the 2018/19 period. All existing cases at the time of transfer were handed over successfully to the Safeguarding Team in Cym Taff Morganwg University health Board.

### 5. FINANCIAL IMPLICATIONS

There is no identified budget for DoLS activity and it is based on cost but does not cover the full actual cost of delivering the service. Work is ongoing as part of post boundary change to identify costs associated with a revised service model for administration and dedication assessors for the activity. This work will clarify costs associated Bridgend Transfer and also establishing a correct budget and costing structure for the DoLS going forwards.

### 6. RECOMMENDATION

The Committee is requested to note the continued profile of improvement and risk mitigation outlined within the report

Governance and Assurance							
<b>Link to corporate objectives</b> (please ✓)	Promoting and enabling healthier communities		Delivering excellent patient outcomes, experience and access		Demonstrating value and sustainability		Securing a fully engaged skilled workforce
			✓				✓
<b>Link to Health and Care Standards</b> (please ✓)	Staying Healthy	Safe Care	Effective Care	Dignified Care	Timely Care	Individual Care	Staff and Resources
		✓	✓				
<b>Quality, Safety and Patient Experience</b>							
The dedicated DoLS Dashboard will provide real time performance activity relating to the Managing Authorities (All Health Board Service Delivery Units) and the Supervisory Body.							
<b>Financial Implications</b>							
To reduce the breaches and any consequential risk of financial loss, the Supervisory Body has developed an action plan. However, there still remains a consequential risk of financial loss and this is identified within the Corporate Risk Register.							

<b>Legal Implications (including equality and diversity assessment)</b>	
Until the new Liberty Protection Safeguards (LPS) legislation is in place, the Health Board has a statutory responsibility to continue with the DoLS process.	
<b>Staffing Implications</b>	
Two Band 6 Best Interests Assessors posts and a dedicated Band 4 DoLS service administrator will shortly be recruited. The new posts will be co located with the Swansea Local Authority DoLS team which will provide accommodation, development support and the potential for new models to develop in the future	
<b>Long Term Implications (including the impact of the Well-being of Future Generations (Wales) Act 2015)</b>	
Collaboration – Working together ensure safeguarding of patients in a way that does not inappropriately restrict their freedom.	
<b>Report History</b>	N/A
<b>Appendices</b>	N/A

