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Health Board

# Deprivation of Liberty Safeguards within SBUHB

# Background

- ▶ The Mental Capacity Act Deprivation of Liberty Safeguards came into force in Wales and England on the 1st April 2009.
- ▶ SBU HB is the Supervisory Body who ensures patients are assessed under the DoLS Criteria as appropriate.
- ▶ 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.
- ▶ This legal framework safeguards people who lack capacity to decide where they need to reside to receive treatment and/or care. This protects those individuals who are deprived of their liberty for their safety and in their best interests.
- ▶ The Health Board has a statutory responsibility - ensuring patients under its care are assessed within legal time scales.

# DoLS Team

- ▶ Bespoke DoLS Team established in April 2019.
- ▶ Team consists of 1 full time Administrator, 2 full time Best Interest Assessors.
- ▶ Remit of DoLS team: to ensure SBU HB meet the legal requirements for vulnerable adults who lack capacity to consent to care / treatment in SBUHB facilities protected by DoLS framework.
- ▶ DoLS assessments are carried out within legislative time frames. All Urgent assessments must be completed within 7 days, with Standard assessments within 21 days.
- ▶ All individuals are assessed by 2 Independent Assessors - Section 12 Doctor and a Best Interest Assessor.

# Internal Audit

- ▶ Previous Internal Audits identified a number of risks in the system with overall 'Limited Assurances'. Recent Internal Audit Review undertaken in August 2019 recognised significant positive changes and improvements.
- ▶ Recent Internal Audit review provided an improved status of 'Reasonable Assurance'.
- ▶ Some of the improvements include:
  - ▶ 2 Full time BIA's in post (April 2019)
  - ▶ Improved Guidance to front line staff ( improved flow chart, priority tool, DoLS Care Plan)
  - ▶ Duty system 'screening' new referrals, advice and guidance with the aim to reduce the number of inappropriate and urgent referrals.
  - ▶ Providing expert point of contact for frontline staff.

# Improvements- cont.

- DoLS Team have implemented their own internal audit of processes and to ensure Units are compliant with DoLS legislation.
- In addition the DoLS Team provide:
- Bespoke sessions for front line staff (identifying a deprivation, making a referral, care planning, applying MCA & DoLS in practice).
- Implementing regular BIA support groups.
- The Supervisory Body ensures consistency and quality across the Health Board.
- Improved data recording, the DoLS Team have developed a comprehensive database which feeds into the Units Dashboard.

# DoLS Data Comparison/Benchmarking

	Current SBHB resource	HDHB
Service Model	DoLS service part of Long Term Care Team Service Manager Band 8b	DoLS Service part of Long term Care team Service Manager 8B
Referrals	706	792
Coordinator role	No	Band 7
BIA	2 Band 6	4 Band 6
Administrator	1 Band 4	1 Band 4
MCA Support Available in the Health Board	No	1 band 7 and 2 Band 6
Cost Total	£111,348	£379,188

Referrals to date - April to October 2019 = 511, compared to 396 for same period last year

# Areas for further improvement

- Interface between Mental Health Act vs Mental Capacity Act, with further work and consultation required with Mental health services:
- To identify relevant appropriate legislation to provide safeguard for individuals detained in Mental health facility - for purpose of care or treatment.
- April -Oct 47 referrals 11 - 23% deemed not a deprivation of liberty frequent reason ineligible and should be detained under MHA.
- Reducing the number of inappropriate non urgent referrals.
- Identification of those individuals who should have their care arrangements authorised.
- Reduce breaches.
- Increase number of assessments completed within the legal time frame.
- Introduce Service Level Agreements for both BIA's and S12 Doctors and provide quality assurances/monitoring.

# Risks

- ▶ Capacity of DoLS team to meet demand, 2 dedicated BIA's have undertaken 126 Assessments 28% for period April - October 2019; SBUHB is still heavily reliant on external assessors (63%).
- ▶ Lack of consistent availability of internal BIA's to undertake agreed number of assessments. Staff unable to be released from acute settings in order to undertake assessments. Currently have 9 trained BIA's who completed 41 assessments (9%) in period April - October 2019.
- ▶ Volume - Increased awareness is likely to result in higher number of patients identified as needing DoLS - increased referrals.
- ▶ Training - DOLS team have identified Managing Authority nursing staff are consistently highlighting need for more practice based training; currently DoLS Team have no training budget.
- ▶ No MCA lead within SBUHB - DoLS Team BIA leads are responding to all MCA/DoLS enquiries.
- ▶ No Process/guidance on: when patients can be treated under Sec 5 and 6 MCA v DoLS & protocols for applications to Court of Protection cases.



# Going forward - Liberty Protection Safeguards

- ▶ DoLS will be replaced by Liberty Protection Safeguards (LPS) planned implementation October 2020 , implications for the Health Board are as follows:-
- ▶ SBUHB will have increased responsibility for Continuing Health Care patients in care homes, this currently sits with Local Authorities) there are currently 330 Individuals receiving CHC funding in a care home setting. There are also 64 individuals receiving CHC in their own homes.
- ▶ BIA leads will require retraining, at present unclear what training commitment is required.
- ▶ BIA leads to be supported into MCA /LPS leads as a priority.
- ▶ BIA leads to support and develop staff in relation to the new LPS conversion service within SBUHB.
- ▶ LPS training for relevant staff across SBUHB.
- ▶ Changes to administrative systems.
- ▶ Will need to identify resources needed to meet demand.