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Bwrdd Iechyd Prifysgol
Bae Abertawe
Swansea Bay University
Health Board



Meeting Date	25 November 2019	Agenda Item	6.2
Report Title	Update position on Deprivation of Liberty Safeguards		
Report Author	Tanya Spriggs Interim Director of Nursing, Primary and Community Service Delivery Unit, Diane Fletcher, Interim Head of Long Term Care.		
Report Sponsor	Gareth Howells Director of Nursing and Patient Experience		
Presented by	Tanya Spriggs		
Freedom of Information	Open		
Purpose of the Report	To provide an update and assurance around the management of Deprivation of Liberty Safeguards (DoLS)		
Key Issues	<ul style="list-style-type: none"> • Moving to a directly employed model has improved the Assurance role of the Supervisory Body; • The Supervisory Body is more informed around the quality of training, application of process and procedures used by the managing Authorities; • Internal Audit finding Reasonable assurance; • The Supervisory Body will not be able to fully meet its responsibilities without additional assessment capacity; • New legislation comes into force in 2020, impact review required to ensure the Health Board is able to comply with its requirements. 		
Specific Action Required <i>(please choose one only)</i>	Information	Discussion	Assurance
	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Recommendations	<p>Members are asked to note :</p> <ol style="list-style-type: none"> 1. Supervisory Body will be required to exceed its financial allocation in order to discharge its obligations. Currently between models due to the 		

	<p>new legislation, further guidance expected in January 2020.</p> <ol style="list-style-type: none"> 2. Support the ongoing work to reduce unnecessary referrals & the number of unnecessary urgent requests and note the Quarter 1 and 2 performance (Appendix 1) 3. In preparation for LPS establish a focus group to scope the impact and implementation for LPS including LPS objectives, costings, and timescales for the training and development needs. SBUHB to identify required workforce for the new LPS and deliverables to ensure SBUHB is able to meet the new legislative requirements
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Update position on Deprivation of Liberty Safeguards

1. INTRODUCTION

The purpose of this report is to provide an update to the Committee on the Quarter 1 and 2 position in relation to Deprivation of Liberty Safeguards.

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, other than under the Mental Health Act 1983 (MCA Code of Practice). The safeguards came into force in Wales and England on the 1st April 2009.

The Health Board has a statutory responsibility to ensure patients under its care can be assessed within agreed time scales. The Corporate Safeguarding Team is working with the Supervisory Body (Primary Care & Community Services Delivery Unit) and the Managing Authorities (Singleton, Morriston, Neath Port Talbot, Gorseinon, Mental Health & Learning Disabilities Service Delivery Units) to address some of the issues which are contributing to the delays.

3. GOVERNANCE AND RISK ISSUES

To enable the Primary and Community Services Delivery Unit to discharge its functions as the Supervisory Body the following actions have been completed.

Internal Audit Action Plan

The DoLS Improvement group have continued to work on and completed actions as identified by the audit. The audit has lifted the level of assurance from Limited Assurance to Reasonable Assurance and reflects the level of improvement work undertaken by the team.

Strengthening Supervisory Functions

Two highly experienced BIA's commenced their roles in April 2019 as part of the ongoing responsibility of the Supervisory Body to improve safeguards. The level of support required by Managing Authorities to improve their processes has been greater than anticipated, occupying 2 days a week from each internal BIA practitioner. The following actions have been completed.

- Establishment of BIA support group which is led by the Supervisory Body. This is providing support around existing responsibilities, compliance with legislation and preparation for the implementation of LPS.

- Frequent visits to Managing Authorities to assess training, understanding, process and compliance. These visits have highlighted the need to strengthen training around legislation, procedures and to review the existing training contracts.
- Commenced an audit of Managing Authorities compliance with appropriate care plans and BIA recommendations. This is a key quality assurance requirement of the Supervisory Body and until now has never been completed.
- Working with Managing Authorities to improve the quality of the DoLS care plans which have been of a poor quality and inconsistent. A set of dedicated Core Care Plans have been developed to provide greater assurance in this area and reduce the need for unnecessary DoLS referrals and Urgent requests. This will be implemented during Q2.
- Working with Managing Authorities in establishing a referral triage function which has provided further information around next steps.
- Reassessing the All Wales Referral Prioritisation Tool. This was ratified at Safeguarding Committee and will be implemented in Q2.
- Reducing commissioning of unnecessary Section 12 assessments has been scoped and will be developed in Q2. Based on work across Wales

Recruitment of Dedicated BIA Roles

- The Unit appointed two dedicated BIA roles to support the delivery of the Supervisory Body Functions. The roles have been instrumental in the delivery of improved support to high referral sites and have introduced a triage process and piloting the All Wales DoLS referral prioritisation tool.
- However, activity performance has only marginally improved in Q1 compared to the same period last year which is due to the overall lack of capacity from the internal BIA resource.
- The existing plan has been to reduce the reliance on the externally contracted BIA roles and use internal Health Board BIA's who are currently employed in substantive roles within Service Delivery Units. This model has been challenging as due to staffing pressures Delivery Units have not been able to release staff. The allocated 2 days a month has not been released for use to the Supervisory Body and does not allow functions of the body to be delivered. This results in the Supervisory Body having to fund external BIA's and there is not enough capacity to deliver assessments within the agreed time scales.

- Triaging has reduced the number of referrals in comparison to the preceeding period with a reduction in Section 12 assessments allocated. There are currently 2 dedicated Supervisory Body BIA's and 14 BIA's from Delivery Units. From the 1st of April 2019 to September 2019 the HB received 538 referrals. Of these 171 were allocated to internal BIA's, 124 of there were completed by the two dedicated internal BIA's. Only 47 were completed by the internal BIA's from other Delivery Units.
- The dedicated BIA roles have added additional value in terms of leading the DoLS transformation plan, the support group, changes in procedures and undertaking quality assurance around Managing Authorities. However, due to the new legislative changes SBUHB are between models, awaiting further guidance in January 2020 in order to determine the future DoLS team structure.

Implementation of Referral Triage Scheme

Previously all referrals were accepted by the DoLS Administrator and automatically allocated for assessment. The DoLS dashboard has helped identify the referral trends which indicated inconsistencies in practice and approach. To help manage referrals and develop further information around referral trends the dedicated DoLS team have implemented a professional referral triage function where all referrals are discussed with the Managing Authorities. The following themes have been identified:

- Identifying incomplete / incorrect information in referrals which would undermine authorisation – incorrect dates/ not identifying criteria for DoLS;
- Providing advice and support should improve appropriateness and quality of referrals in future;
- Identifying when standard assessments not required i.e. discharged, regained capacity, no longer Deprived of liberty;
- Identifying when the referral only requires a BIA which supports saving on s12 allocation;
- Offering advise prior to a referral – diverting need for a referral;
- Offering support and advise to other BIA's - improving quality and compliance;
- Questioning appropriateness of urgent referrals – reducing number of urgent referrals;

Undertake Impact Assessment Meeting Around Proposed Liberty Protection Standards (LPS)

At present the Welsh government is currently working on the LPS code of practice, drafting regulations. Timescales when this will be made publicly available is spring 2020.

LPS scheme arrangements will cover hospitals and care homes supported living, shared lives and private and domestic settings. The LPS can also provide authorisation of day centre and transport arrangements. Authorisations can also be for multiple settings built into the person's care plan.

LPS will apply to people aged 16 or over in line with the MCA 2005(16-17 year old)

A Responsible Body will replace Supervisory body, as the agency responsible for authorising the LPS arrangements that amount to a deprivation of liberty.

There is likely be an increase in volumes of assessment request for SBUHB, as a consequence of care and treatment arrangements are carried out mainly through the provision of NHS Continuing Health Care, nursing homes, as the responsible body will be the Local Health Board in Wales.

The LPS will have a pre-authorisation review which can be completed by either an approved mental capacity professional (AMCP), or 'some other health or care professional' Welsh Government will set out in the regulations who can undertake a pre authorisation review; as this is not normally expected to be a AMCP, unless for example the person is objecting to their care and treatment , or family, advocate IMCA raises an objection to the current or proposed care and treatment arrangements.

4. FINANCIAL IMPLICATIONS

There is no identified budget for DoLS activity, a review of the service model with other Health Boards has shown a difference in how services are funded. Considering the similar level of referrals the comparison has highlighted that the level of funding and resource available for the SBUHB Supervisory Body is significantly lower than that of other HB's and should remain under review in light of the implementation of LPS.

Current Resource	SBU HB	HBUHB	ABUHB & Consortium (1HB & 5LA's)
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	DoLS Service currently seeking MCA support for ABUHB
Referrals	706	792	557 (ABUHB)
Coordinator role	No	Band 7	1 Band 8a
BIA	2 Band 6	4 Band 6	10 Band 6 (4 seconded from LA's) 6 HB dedicated BIAs
Administrator	1 Band 4	1 Band 4	2 - 1 Band 3: 1 Band 4
MCA Support Available in the Health Board	No	1 Band 7 and 2 Band 6	Incorporated into Co-coordinator Role
Cost Total	£111,348	£379,188	Not provided

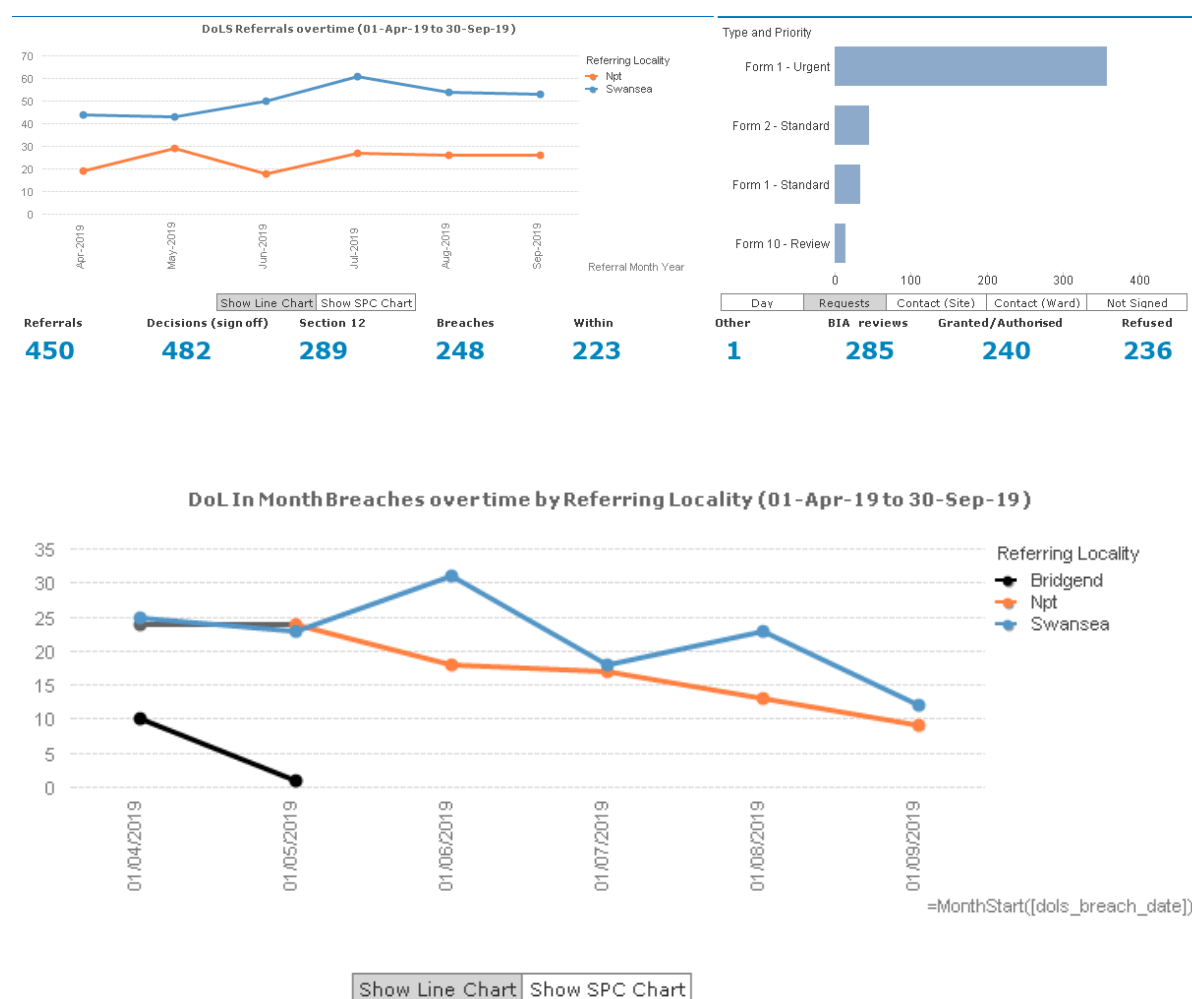
5. RECOMMENDATION

Members are requested to note:

1. Supervisory Body will be required to exceed its financial allocation in order to discharge its obligations; currently between models due to the new legislation, further guidance expected in January 2020.
2. Support the ongoing work to reduce unnecessary referrals and the number of unnecessary urgent requests;
3. In preparation for LPS establish an LPS focus group to scope the impact and implementation for LPS including LPS objectives, costings, timescales for the training and development needs. SBUHB to identify required workforce for the new LPS and deliverables to ensure SBUHB is able to meet the new legislative requirements.

Governance and Assurance		
Link to Enabling Objectives (please choose)	Supporting better health and wellbeing by actively promoting and empowering people to live well in resilient communities	
	Partnerships for Improving Health and Wellbeing	<input type="checkbox"/>
	Co-Production and Health Literacy	<input type="checkbox"/>
	Digitally Enabled Health and Wellbeing	<input type="checkbox"/>
	Deliver better care through excellent health and care services achieving the outcomes that matter most to people	
	Best Value Outcomes and High Quality Care	<input type="checkbox"/>
	Partnerships for Care	<input type="checkbox"/>
	Excellent Staff	<input type="checkbox"/>
	Digitally Enabled Care	<input type="checkbox"/>
	Outstanding Research, Innovation, Education and Learning	<input type="checkbox"/>
Health and Care Standards		
(please choose)	Staying Healthy	<input type="checkbox"/>
	Safe Care	<input checked="" type="checkbox"/>
	Effective Care	<input type="checkbox"/>
	Dignified Care	<input type="checkbox"/>
	Timely Care	<input type="checkbox"/>
	Individual Care	<input checked="" type="checkbox"/>
	Staff and Resources	<input type="checkbox"/>
Quality, Safety and Patient Experience		
Report highlights the importance of safe and timely assessment		
Financial Implications		
Report identifies the current financial challenges and lack of funding for Supervisory Body Function.		
Legal Implications (including equality and diversity assessment)		
Report reference the legal framework which is current and the future LPS implementation		
Staffing Implications		
Report outlines the current staffing capacity issues and identifies the potential for future staffing model to become compliant.		
Long Term Implications (including the impact of the Well-being of Future Generations (Wales) Act 2015)		
Report makes reference to future legislation.		
Report History	Presented to MHA&MCA Compliance Committee in August	
Appendices	Appendix 1 provides performance information Q1 & Q2.	

Qtrs. 1&2 2019



DoLs Granted withintimescales and those who have breached(01-Apr-19 to 30-Sep-19)

