



Deprivation of Liberty Assessments 2017-18

City of York Council

Internal Audit Report

Business Unit: Health, Housing and Adult Social Care
Responsible Officer: AD, Adults and Social Care
Service Manager: Head of Adult Safeguarding & Mental Health
Date Issued: 13th June 2018
Status: Final
Reference: 11620/001

	P1	P2	P3
Actions	0	2	5
Overall Audit Opinion	Reasonable Assurance		

Summary and Overall Conclusions

Introduction

The Mental Health Act 2007 introduced the Deprivation of Liberty Safeguards (DoLS) from 1 April 2009 in order to provide legal protection for vulnerable people in hospitals or care homes. DoLS apply to people 18 years or over who have some form of mental disorder and lack capacity to consent to the arrangements made for their care or treatment, but for whom receiving care or treatment in a setting that amounts to a deprivation of liberty may be necessary to protect them from harm.

The safeguards place a statutory responsibility on local authorities to have systems in place for receiving, processing and reviewing Deprivation of Liberty applications from care homes and hospitals relating to people ordinarily resident in their area. These applications must be assessed by individuals with specific training and the local authority must ensure that all assessments are completed within 21 days, or 7 days where an urgent authorisation has been issued.

Local authorities must also ensure that there is sufficient provision of independent advocacy to meet their obligations under the Care Act. Every person deprived of their liberty must have a Relevant Persons Representative (RPR) to protect their interests throughout the DoLS process.

Objectives and Scope of the Audit

The purpose of this audit is to provide assurance to management that procedures and controls within the system will ensure that:

- Assessments are completed to statutory requirements and timescales;
- Assessments are authorised by officers with appropriate delegated authority and are subject to quality assurance reviews;
- Assessments are undertaken by staff members with appropriate training and qualifications;
- Adequate performance management information is produced for monitoring purposes;
- Monitoring arrangements are in place to ensure that Relevant Persons Representatives are undertaking their responsibilities.

Key Findings

It was found that DoLS referrals are prioritised in a timely fashion according to ADASS (Association of Directors of Social Services) guidelines, in order to ensure that high priority cases can be allocated to assessors as soon as possible. Testing provided assurance that high priority applications are allocated within the desired two week timescale, although medium and low priority applications are not reviewed within their desired respective timescales.

The six required assessments are always completed by BIAs and medical practitioners for individuals subject to a DoLS and all required evidence is retained on Mosaic records. Appropriate authorisation was in evidence for all tested safeguards.

1 Processing of DoLS applications

Issue/Control Weakness

DoLS assessments are not processed within statutory timescales.

Risk

Individuals at risk of deprivations of their liberty may not receive assessment in a timely fashion.

Findings

Referrals for DoLS assessments are submitted to the council's DoLS team by hospitals, care homes and supported living establishments. There are statutory deadlines for the completion of assessments; 21 days for a standard application and 7 days for an urgent application. During this time, it is expected that an authority will prioritise the referral, assign the assessments to a Best Interests Assessor (BIA) and medical practitioner, review their subsequent assessments and then make a decision on whether to award or refuse a safeguard. Review of nationally published statistics shows that the council performs comparatively poorly to other local authorities in the time taken to process DoLS applications, scoring in the lower quartile with 5% of standard applications processed within the statutory timescale. Audit testing on a sample of assessments also demonstrated that the council complete standard applications within an average of 43.4 days and urgent applications within an average of 69.7 days.

It is important to recognise that all local authorities are struggling to sufficiently resource the DoLS assessment workload, after a Supreme Court ruling in 2014 effectively increased the number of applications by tenfold. As a national average, only 25% of standard applications are processed within the statutory timescales. However, the council may wish to review their current resourcing arrangements in order to improve their comparative processing performance with other authorities.

Management Response 1.1

Due to the inaccuracies found in the current method for calculating processing statistics, as detailed in finding 7 'Accuracy of Processing Statistics', an action has not been agreed at this time. Once the DoLS process is fully automated and the reliability of the calculation method suitably improved, the council's performance will be compared again to the national average. Should the processing statistics still demonstrate that the council's comparative performance is poor, an appropriate action will be agreed to mitigate this risk.

Priority	2
Responsible Officer	N/A
Timescale	N/A

3 Quality Assurance Reviews

Issue/Control Weakness

Quality assurance reviews are not currently undertaken on samples of DoLS assessments.

Risk

Inconsistencies in practice and poor performance may not be identified.

Findings

Quality assurance reviews are not currently undertaken on samples of assessments in order to improve consistency of practice. It should be noted that the assessment authorisation process acts as a quality review to an extent, as a member of the DoLS team must view the forms completed by assessors before the safeguard can be awarded. However, a more comprehensive scrutiny process could identify trends in assessor performance and allow the DoLS team to respond accordingly.

In the near future the safeguarding service intends to introduce a panel, consisting of existing members of the DoLS team, who will undertake regular quality reviews on samples of assessments.

Agreed Action 3.1

A sample of DoLS assessments will be reviewed for quality on a monthly basis by a senior member of the safeguarding team. Results will be fed back to assessors to ensure that expected standards are communicated and consistency of practice achieved wherever possible.

Priority

3

Responsible Officer

Head of Adult Safeguarding and Mental Health

Timescale

July 2018

4 Review of medium and low priority applications

Issue/Control Weakness

Medium and low priority applications are not reviewed for changes of circumstances within the desired timescales.

Risk

Individuals who have developed a higher risk of requiring a DoLS may not be identified in a timely fashion.

Findings

Hospitals and care homes submit referrals for DoLS assessments for individuals in their care to the DoLS team. These referrals are reviewed and prioritised according to criteria provided by ADASS (Association of Directors of Adult Social Services) within an average of 1.2 days. High priority applications (those where an individual is considered to be at a higher risk of requiring a deprivation of liberty in the near future) are ideally allocated to a BIA and medical practitioner within two weeks. Medium and low priority applications (those where an individual is considered to be at a lesser risk of requiring a deprivation of liberty) are ideally reviewed for any changes in the individual's circumstances within a 3 month and 6 month period respectively.

It was found that high priority applications are allocated within two weeks of receipt of the referral. However, it was also found that medium priority applications are rarely reviewed for change within 3 months (usually occurring after circa 5 months) and low priority applications are not reviewed within 6 months (usually occurring after circa 7 months).

Whilst there are some difficulties in reviewing lower priority cases within the desired timescale, it should be noted that applications are prioritised in a timely fashion on receipt, to ensure that high priority cases can be allocated as soon as possible.

Agreed Action 4.1

An automated reminder process will be implemented in the Mosaic system, which will notify the DoLS team when a medium or low priority application is due for review.

Priority

3

Responsible Officer

Head of Adult
Safeguarding and
Mental Health

Timescale

September 2018

5 RPR Updates

Issue/Control Weakness

Where an RPR is a relative of the individual subject to a safeguard, progress reports are not provided to the safeguarding team.

Risk

Adverse changes in the individual's circumstances may not be reported in a timely fashion.

Findings

An RPR (Relevant Person's Representative) is assigned to every individual who is subject to a DoLS. It is their responsibility to maintain regular contact with the person subject to a safeguard and to represent and support them in all matters relating to the safeguard. This includes, if appropriate, triggering a review, using an organisation's complaints procedure on the person's behalf or making an application to the Court of Protection. They are also responsible for submitting progress reports to the council, indicating whether interests are being safeguarded and if there are any issues with the individual which require attention.

RPRs can either be a close friend/family member or an independent advocate. The council currently apply for independent advocates via Cloverleaf Advocacy. Audit testing would suggest that where the RPR is a family member, progress reports are not provided to the safeguarding team. It is worth noting that the guidance material which is currently provided to RPRs does not specify that it is their responsibility to provide regular updates. There are also no monitoring arrangements in place to ensure that RPRs are undertaking these responsibilities.

Agreed Action 5.1

A benchmarking exercise will be undertaken, comparing council practice for obtaining progress reports with that of other local authorities. After this review, a method for ensuring RPRs fulfil these responsibilities will be developed.

Priority

3

Responsible Officer

Head of Adult Safeguarding and Mental Health

Timescale

September 2018

6 Policies and Procedures

Issue/Control Weakness

Policies and procedures are not in place to direct the assessment and management of Deprivation of Liberty Safeguards.

Risk

Statutory action is taken against the council for failing to manage active safeguards appropriately.

Findings

There are no local guidance documents in place to inform council staff, internal/external BIAs and IMCAs of the steps to be taken when undertaking a DoLS assessment, or how an active safeguard should be managed. These could also include definitions of the responsibilities of the council and relevant care homes, residential homes and hospitals, the responsibilities of RPRs and the steps to be taken when a safeguard is due to expire or a review of the safeguard is requested.

Agreed Action 6.1

A benchmarking exercise will be undertaken, comparing council policy documents with those of other local authorities. Local processes will be observed and appropriate guidance documentation will be produced and communicated to DoLS team members.

Priority

3

Responsible Officer

Head of Adult Safeguarding and Mental Health

Timescale

November 2018

7 Accuracy of Assessment Processing Statistics

Issue/Control Weakness

The dates entered onto the assessment monitoring spread sheet are not always accurate.

Risk

Processing statistics may not be accurately calculated.

Findings

The safeguarding team are required to report their assessment processing statistics nationally as a key performance indicator. As the DoLS process is currently being automated on the Mosaic system, reports cannot be extracted which would allow the calculation of the time elapsed between receipt of the referral and the authorisation, withdrawal or refusal of the safeguard. Therefore, these statistics are calculated by observation of the monitoring spread sheet maintained by Business Support. Business Support officers maintain this spread sheet, manually entering the dates of completion of each stage of the assessment process for every safeguard, according to the correspondence and documentation available to them.

Audit testing demonstrated that the dates entered onto this spread sheet for the start and end of the assessment process did not always correspond to the dates of the correspondence and documentation retained on the Mosaic system.

Agreed Action 7.1

The DoLS process is currently being automated on the Mosaic system. After completion, system reports will calculate processing times using the start and end dates stated on the assessment documentation and entered on Mosaic by Business Support Assistants.

Priority

3

Responsible Officer

Head of Adult Safeguarding and Mental Health

Timescale

October 2018

Audit Opinions and Priorities for Actions

Audit Opinions

Audit work is based on sampling transactions to test the operation of systems. It cannot guarantee the elimination of fraud or error. Our opinion is based on the risks we identify at the time of the audit.

Our overall audit opinion is based on 5 grades of opinion, as set out below.

Opinion	Assessment of internal control
High Assurance	Overall, very good management of risk. An effective control environment appears to be in operation.
Substantial Assurance	Overall, good management of risk with few weaknesses identified. An effective control environment is in operation but there is scope for further improvement in the areas identified.
Reasonable Assurance	Overall, satisfactory management of risk with a number of weaknesses identified. An acceptable control environment is in operation but there are a number of improvements that could be made.
Limited Assurance	Overall, poor management of risk with significant control weaknesses in key areas and major improvements required before an effective control environment will be in operation.
No Assurance	Overall, there is a fundamental failure in control and risks are not being effectively managed. A number of key areas require substantial improvement to protect the system from error and abuse.

Priorities for Actions

Priority 1	A fundamental system weakness, which presents unacceptable risk to the system objectives and requires urgent attention by management.
Priority 2	A significant system weakness, whose impact or frequency presents risks to the system objectives, which needs to be addressed by management.
Priority 3	The system objectives are not exposed to significant risk, but the issue merits attention by management.

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