

Item 9.3

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Author: Adviser	Chris Brace, MCA & DoLS Lead & Mental Health Law
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Distribution:	<ul style="list-style-type: none"> ▪ CCG Governing Body members ▪ All Staff Directly employed by the Vale of York CCG through line management structure
Compliance:	Training and or awareness for all staff directly employed by the CCG and Governing Body members.
Equality & Diversity Statement:	This policy has been subject to a full Equality Impact Assessment (Appendix 2)
Version 1. February 2013	

Vision

The facilitation of effective learning and development, in the context of mental capacity law, for all personnel working for the four CCGs located within North Yorkshire and the City of York. This will ensure that staff are enabled to carry out their statutory responsibilities and duties, making a difference to the health, welfare and the autonomy of all adults in North Yorkshire and York.

Consequently, staff will be equipped with the necessary knowledge and legal framework for decision making to be applied in accordance with the principles as set out in section 1 of the Mental Capacity Act 2005.

Foreword

By law, commissioners of certain adult social care and health care services have a legal responsibility to make sure that providers are meeting essential standards of quality and safety that are underpinned by robust learning resources and training provision.

The Mental Capacity Act 2005 provides a statutory framework for people who lack capacity to make decisions for themselves, or who have capacity and want to make preparations for a time in the future when they may lack capacity.

CCGs, staff employed by them and providers of services from which they commission, are under a formal duty to have regard to the Code of Practice - practical guidance which explains how the Act should operate on a day to day basis and providing examples of best practice. These are the standards that everyone included within the provisions should be able to expect when they receive care.

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Glossary

BIA	Best Interests Assessor – Provides an assessment of best interest when an application under the Deprivation of Liberty Safeguards has been received
BPU	Business Partnership Unit
CCG	Clinical Commissioning Group
DoLS	Deprivation of Liberty Standards – Procedures that provide a legal framework where deprivation of liberty is considered to be a necessary part of the plan of care. Inserted as Schedule 1 in the Mental Capacity Act 2005, the deprivation of liberty safeguards were introduced via the Mental Health Act 2007 amendments and implemented on 1 April 2009.
MCA	Mental Capacity Act 2005
MHA	Mental Health Act 1983
OPG	Office of the Public Guardian
TAG	Training and Advisory Group (MCA/ DoLS)

Introduction

This is the first North Yorkshire and York Clinical Commissioning Groups' learning and development strategy in relation to the Mental Capacity Act 2005 and the Deprivation of Liberty Safeguards provisions that were inserted into the 2005 Act, and the interface of these statutes with the Mental Health Act 1983.

The MCA reflects the nature of modern healthcare, it provides a statutory framework to empower and protect vulnerable people who may not be able to make their own decisions. It sets out a framework for assessing whether an individual has the necessary capacity to make a particular decision, and it makes provision for people who have capacity to plan ahead for a time when they may lack capacity. It gives a power to staff (and others) working with people who lack the capacity to consent, to make decisions in the individual's best interests.

This strategy is specific to the statutory duties and responsibilities under the Mental Capacity Act and is not inclusive of Safeguarding Adults. The MCA has statutory force and is broader than Safeguarding adults per se. The MCA applies to all staff and volunteers who support adults over the age of 16 who may lack capacity.

The Department of Health provides CCGs with specific funding for the discharge of MCA responsibilities.

Safeguarding adults training is provided by the local authorities: North Yorkshire County Council and City of York Council who are the lead agencies and resourced accordingly.

This strategy supports the Mental Capacity Act 2005 policy and Deprivation of Liberty Safeguards policy and builds upon the work previously undertaken by NHS North Yorkshire and York.

Scope of the Training Strategy

The scope of the Mental Capacity Act and Deprivation of Liberty Safeguards legislation is vast; the Act may be engaged in decisions relating to personal welfare including social care, health care and treatment as well as decisions concerning financial affairs.

Learning will cover (depending on analysis of individual staff group needs): application of the principles that appear on the face of the Act; understanding incapacity; skills involved in the assessment of capacity; Best interests and best interests decisions; acts in connection with care and treatment and limitations to the protection from liability; authority to make decisions, lasting power of attorney, court deputies and advance decisions; general powers of the Court of Protection; applications to the Court of Protection; excluded decisions; research and requirements for approval; statutory advocacy; provision of serious medical treatment; restriction and deprivation of liberty; application and approval of Deprivation of Liberty Safeguards; interface with the Mental Health Act 1983; Functions of the Public Guardian.

This strategy applies to all CCG staff in North Yorkshire and York including Governing Body members, direct employees, independent contractors, students and volunteers.

This strategy will be reviewed and revised in the light of the evaluations of CCG staff and managers, Government policy and case law, subject to the approval of the CCG Boards. Initially the strategy will be subject to annual review.

Purpose:

- ▶ To ensure that all CCG staff understand the implications of the Mental Capacity Act 2005 and codes of practice for their professional practice and day to day activity at work.
- ▶ To be assured that health providers from whom the CCGs commission services are providing a learning and development programme that is sufficient to equip their staff with the necessary knowledge and skills to comply with their statutory duties, government guidance and contractual obligations.
- ▶ To reassure the patients and public, relevant regulatory bodies and local Health Watch that all the employed, contracted and voluntary staff within the CCGs are fulfilling their responsibilities and obligations to adults who may lack the capacity to make their own best interests decisions.
- ▶ To demonstrate that CCGs within North Yorkshire & York are continuously working towards an improved experience and outcomes for patients who may lack capacity and for their friends and families.

- ▶ To ensure that all staff in the respective CCGs are familiar with the organisations MCA and DoLS policy

Learning Outcomes.

- ▶ CCG Board Members, commissioning staff, general practitioners and practice staff will confidently carry out their particular obligations under the Mental Capacity Act 2005 and the Deprivation of Liberty Safeguards.
- ▶ CCG personnel will be familiar with the scheme of the Act and know where and how to access resources in connection with the discharge of their duties to patients and the public.
- ▶ In particular, having engaged with the learning and development programme at the appropriate level, staff will demonstrate the practical application of the Act.
- ▶ Clarity of roles as an outcome of training will improve patient autonomy and maximise the effectiveness of the various agencies contributing to health and social care
- ▶ Professionals working confidently within a clear decision making framework will contribute to the achievement of the best health and well-being outcomes for everyone in the community.

Strategic Action Plan

Short Term Objectives – by end of April 2013

- a) Agree and publish this strategy
- b) Establish a Training Advisory Group (TAG) to cover the four CCGs based within North Yorkshire & York to ensure that the implementation of this strategy is monitored and reported on annually
- c) Develop the medium & long term targets of the TAG & Learning Development Plan.
- d) Map the MCA / DoLS / learning and development activity that is currently taking place within the four CCGs.
- e) Identify where and how staff within the four CCGs can access learning and development opportunities appropriate to their needs and by whom this will be delivered.
- f) Agree an evaluation methodology that will ensure impact measurement of training undertaken and that is linked to continuing service improvement.

Medium Term Targets – by end of December 2013

- a) Review this strategy annually in line with any emergent changes in the legislation and other national drivers and update accordingly.
- b) Utilise the TAG to ensure that the implementation of this strategy continues to be monitored and included in the MCA annual report produced for the Boards.
- c) Develop a common core programme of learning and development across the four CCGs based within North Yorkshire & York to provide a cohesive approach to MCA/DoLS learning and development.
- d) Review the Learning and Development Delivery Plan in alignment with the multi-agency regional / county MCA & DOLS Forum ensuring that multi-agency training needs are being commissioned in an informed way.
- e) Implement the agreed evaluation strategy, thus providing measurement of outcome impact to provide assurance that the relevant learning and development activity is resulting in continual service improvement.
- f) Evaluate the effectiveness of the TAG itself including the Terms of Reference, the implementation of the Learning and Development Strategy and the Learning and Development Delivery Plan to ensure that they remain fit for purpose.
- g) Monitoring the delivery and uptake of a programme of learning and development is a continuous and ongoing activity. The result will inform and contribute to a cohesive approach by the CCGs and partners in other agencies.

Implementation

To ensure that the workforce development activity of the future is fit for purpose, there are operational requirements identified within this strategy. These provide the structural elements to facilitate successful delivery.

Analysis of learning needs

Identification of learning and development needs is not a single event. Although founded upon staff appraisal and informed by team objectives it remains a dynamic, ongoing process which ensures that learning and development provision is specifically tailored to the service needs of practitioners & staff within each CCG. Each CCG will have their own specific needs and requirements pertinent to the nature of their organisation, and each CCG may have their own preference about modes of delivery for learning and development.

Training Advisory Group (TAG): Mental Capacity Act and DoLS

In order to support the necessary learning and development in a robust and transparent manner across all four CCGs, a MCA/DoLS will be convened comprising of representatives of the relevant stakeholders (to include at least one General Practitioner) and the MCA DoLS Lead and relevant training & development officers/leads as established by the CCGs.

The MCA/DoLS (TAG) will oversee the implementation, review and report progress. It is anticipated that the Training Group will be the official conduit between the four CCGs.

An additional purpose of the Training Group will be to provide a forum for the development and review of all learning and development opportunities that support compliance with MCA/DoLS across the four CCGs, including: quality assurance; evaluation and monitoring of training. The HR workforce information unit will provide the TAG and Local Authorities with statistical information regarding relevant training undertaken by staff.

Learning and Development Plan

A learning and development plan will be developed (as described above) taking into account the needs identified by the four CCGs. It will be developed in order to support the implementation of this outline strategy document, ensuring that approaches to MCA & DoLS learning and development are consistent across the four CCGs, and meet national requirements and the intercollegiate levels of competency.

The matrix attached at Appendix 1 identifies MCA/DoLS learning and development requirements for health staff as defined in the MCA Code of Practice, CQC guidance documents and the CCG Statutory Training Programme

Evaluation of the Learning and Development Programme

As part of the overall work plan for the Training Advisory Group identified above, an effective methodology for the evaluation of training and its impact on practice will be developed and agreed.

The CQC authorisation requirements state each CCG must ensure that that all staff should have access to expert advice and support in relation to MCA & DoLS.

In this context, “supervision” is a process of professional support and learning, enabling staff to develop competences, and to assume responsibility for their own practice. Supervision provides a mechanism for support and guidance to staff that have contact with patients, families, friends and unpaid carers. The purpose of clinical governance and supervision of the application of the Mental Capacity Act is to ensure the protection of people who lack capacity by

actively promoting a safe standard of practice in the discharge of the legal duties and responsibilities enshrined in the Act. Clinical governance and supervision are also a means of resourcing professionals and preventing poor practice. One of the key functions of supervision is to support learning and development and it is a vehicle through, in conjunction with the staff appraisal processes, individual learning needs may be identified.

Local Standards for Mental Capacity Act Learning and Development

The Table below sets out the local standards expected from all of the four CCGs. Monitoring of compliance to these standards will be via the TAG and the CCGs own governance arrangements.

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To support the production of an annual learning and development delivery plan, the following local standards will be adhered to:

Standard	Process	Outcome
<p>1. Learning events will be planned, overseen and delivered by persons with knowledge and professional experience in the application of the MCA and will be suitably qualified to facilitate the learning event.</p>	<ul style="list-style-type: none"> ▪ Set up a database of approved trainers, this will be reviewed annually. ▪ Commission learning and development in accordance with agreed procurement procedures. 	<ul style="list-style-type: none"> ▪ All learning and development is effective and is delivered by experienced trainers who have acquired in depth knowledge and expertise in the subject and in the processes of aiding learning.
<p>2. Learning and development is informed by case law and contemporary Government guidance. Lessons from Serious Case Reviews, law reports and local and national developments or directives.</p>	<ul style="list-style-type: none"> ▪ Officers responsible for providing learning and development programmes will keep abreast of relevant legal and policy developments and ensure that these are integrated into training and information bulletins. 	<ul style="list-style-type: none"> ▪ Participants will receive and consider the impact of up to date information, relevant to their professional practice and that of colleagues within and external to their organisation.
<p>3. Teaching will ensure the acquisition of knowledge, skills and competencies that are appropriate to the staff group and that reflect the Convention on the International Protection of Adults and that comply with domestic law.</p>	<ul style="list-style-type: none"> ▪ Ensure that valuing diversity will permeate all learning and development and all forms of discrimination, where it occurs, will be challenged. ▪ Training programmes promote the human rights of adults at risk of harm and adults who lack the mental capacity to make their own best interests decisions encouraging autonomy in health and social care decision making. 	<ul style="list-style-type: none"> ▪ All staff working with Adults at risk and or who are included within the provisions of the Mental Capacity Act 2005 are aware of the learning and development they need and how to access it.

Standard	Process	Outcome
<p>4. Learning and development will be reviewed and evaluated regularly to ensure it meets the agreed learning outcomes for individuals and the CCGs.</p>	<ul style="list-style-type: none"> ▪ All learning and development will be evaluated centrally at the Training Advisory Group (TAG). ▪ Audits of the learning and development available to inform the overall picture and to identify gaps in service provision. ▪ A consistent approach to workforce development linked to shared performance indicators and inspection criteria. 	<ul style="list-style-type: none"> ▪ Evaluation methods follow a robust and transparent methodology contributing to effective staff development. ▪ An annual written report on learning and development and development activities will be available. ▪ Identified learning and development needs from Personal Development Reviews and the business plan will inform the Learning and Development strategy. ▪ Reduction in risk associated with insufficient learning and development ▪ The four CCGs based within North Yorkshire & York are able to evidence that the workforce is trained to an appropriate level in regard to the application of mental capacity law.

Standard	Process	Outcome
<p>5.. CCG staff & members work together & with partner agencies to apply the provisions of the Mental Capacity Act 2005 policy and are fully compliant with their statutory duties and responsibilities.</p>	<ul style="list-style-type: none"> ▪ Further develop training links with relevant statutory agencies and community based voluntary and independent organisations. ▪ CCG staff & members are conversant with the need to share information appropriately balanced with their duty of confidence ▪ Where appropriate, coordinate joint interagency training to learn from Serious Case Reviews 	<ul style="list-style-type: none"> ▪ Managers of services are informed of attendance as required by their service. ▪ Improved communication and understanding of agency roles and individual responsibilities. ▪ Prevent

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10 Conclusion

This strategy outlines the proposed framework by which the CCGs will develop over the next 2 years to ensure that Mental Capacity Act, Deprivation of Liberty Safeguards Training is delivered in an effective, efficient and sustainable way. The role of the TAG (MCA DoLS) will be pivotal in ensuring such development activity takes place.

The strategy will be kept under review and amendments will be informed by National guidance, regional / county inter-agency forums and local evaluation.

Doctors and health professionals have legal duties and professional responsibilities to Adult patients who may lack the ability to make a decision or who may be at risk of abuse. The CCGs are accountable for ensuring that staff are sufficiently aware and resourced to comply with the law, codes of practice and other relevant contemporary guidance.

This document provides an outline only, detail will be decided by the stakeholders represented on the Training Advisory Group and those with authority to implement components of the strategy.

Working Draft

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Policy:

CCG Mental Capacity Act 2005 Policy

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Appendix 1

Staff Groups

Group 1	<p>This awareness raising is an introduction to the Mental Capacity Act. It can be an approved e-learning package or at corporate induction (must last at least 30 minutes) and be undertaken within 6 months of taking up post. <i>(Denotes Level 1 Intercollegiate Documents 2010¹⁴ & 2012¹⁵).</i></p> <p>Non-clinical staff working in any health care setting e.g. CCG administrative staff</p>
Group 2	Those with regular contact or have a period of intense but irregular contact, Adult patients, carers including all health clinical staff.
Group 3 and 4	<p>Members of the workforce who belong to the following Staff groups: GPs, Practice Nurses, Professions Allied to Health, Adult Allied Health Professionals, community mental health staff, professionals, sexual health staff, health visitors, midwives, psychologists, obstetricians, Physicians, radiologists, surgeons, anaesthetists and dentists.</p>
Group 5 and 6	<p>Specialist roles.</p> <p>Specialist professionals should undertake further education, training and learning appropriate to their role.</p>
Group 7 and 8	<p>Senior managers responsible for the strategic management of services; NHS Board members and Designated Safeguarding Children & Child Protection professionals. <i>(Denotes Level 5 Intercollegiate Documents 2010¹⁴ & 2012¹⁵)</i></p>

The above grid to be further developed in consultation with the Training Advisory Group and Workforce Development personnel.

Appendix 2

EQUALITY IMPACT ASSESSMENT (EIA) INITIAL SCREENING TOOL

Document Name: Mental Capacity Act and Safeguarding Adult Learning and Development Strategy and Delivery Plan Date/Period of 2013/2015 Document: _____

Lead Officer: Safeguarding Adults Directorate: Business Partnership Unit Reviewing Officers: ???

<input type="checkbox"/> Function	<input type="checkbox"/> Policy	<input type="checkbox"/> Procedure	<input checked="" type="checkbox"/> Strategy and Delivery Plan	<input checked="" type="checkbox"/> Joint Document? YES – between the four CCGs based within North Yorkshire & York
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Describe the main aim, objectives and intended outcomes of the above:
This strategy considers the learning and development needs of all staff within & members of the four CCGs based within North Yorkshire & York, with regards to safeguarding children.

*You must assess **each** of the 7 areas separately and consider how your policy may affect people's human rights.*

1. Assessment of possible adverse impact against any minority group

How could the policy have a significant negative impact on equality in relation to each area?		Response		If yes, please state why and the evidence used in your assessment
		Yes	No	
1	Age?	X		Statutory age threshold (over 16yrs)
2	Gender (Male, Female and Transgender)?		X	
3	Disability (Learning Difficulties/Physical or Sensory Disability)?		X	
4	Race or Ethnicity?		X	
5	Religious, Spiritual Belief?		X	
6	Sexual Orientation?		X	
7	Socio-economic groups?		X	

You need to ask yourself:

- Will the policy create any **problems** or **barriers** to any community of group? **No**
- Will any group be **excluded** because of the policy? **No**
- Will the policy have a negative impact on **community relations**? **No**

If the answer to any of these questions is Yes, you must complete a full Equality Impact Assessment

2. Positive impact:

Could the policy have a significant positive impact on equality by reducing inequalities that already	Response		If yes, please state why and the evidence used in your
	Yes	No	

exist? Explain how will it meet our duty to:				assessment
1	Promote equal opportunities	X		Inclusive strategy across the four CCGs based within North Yorkshire & York
2	Get rid of discrimination		X	
3	Get rid of harassment		X	
4	Promote good community relations	X		Standardised process with all included
5	Promote positive attitudes towards disabled people	X		MCA and DOLS Codes of Practices actively promotes positive attitude towards disabled people.
6	Encourage participation by disabled people	X		MCA principles encourage all practicable steps to be taken to help person make a decision.
7	Consider more favourable treatment of disabled people	X		Vulnerability of Adults who lack the capacity to make certain decisions will be highlighted in all relevant training
8	Promote and protect human rights	X		Mental Capacity Law and Safeguarding policy is founded upon Human rights conventions

3. Summary						
On the basis of the information/evidence/consideration so far, do you believe that the policy will have a positive or negative adverse impact on equality?						
Positive	<i>Please rate, by circling, the level of impact</i>					Negative
HIGH	MEDIUM X	LOW	NIL	LOW	MEDIUM	HIGH
Date assessment completed: 16 /1/13	Is a full equality impact assessment required?			<input type="checkbox"/> Yes		<input checked="" type="checkbox"/> No