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To: PCT CEs

Copied to: SHA CEs Trust CEs, Directors of Adult Social Care Services, NHS Foundation Trusts, Monitor.

Dear Colleagues

THE NHS AND PEOPLE LACKING MENTAL CAPACITY

Summary

1. Much progress has been made in implementing the Mental Capacity Act (MCA), which came into force in 2007. The NHS has achieved a great deal in terms of training staff, raising awareness, introducing best interests decisions, working with an Independent Mental Capacity Advocacy (IMCA) service and launching new Deprivation of Liberty Safeguards (DOLs).
2. However much remains to be done. The Department has recently published statistics on the levels of DOLs assessments nationally. They show there are still PCTs and hospitals across the country where no DOLS assessments have taken place in the last 12 months.
3. Chief executives are reminded that they have a statutory responsibility for ensuring that no NHS care or treatment is offered without the necessary DOL safeguards in situations which amount to a deprivation of liberty.
4. The Department of Health has made resources available to the NHS for the implementation of the MCA. PCT allocations for 2010/11 are attached. Funding for the MCA is recurrent.

The Implementation of the Mental Capacity Act

5. The last three years have seen good progress embedding the principles of the Mental Capacity Act into the work of the NHS. Policies and practices have been written; training has taken place across local health and social care economies and best interests decisions have begun to be made.

6. IMCA services are now well established and play an increasing role in accommodation decisions and serious medical treatment decisions. In the last year some 9,000 people benefited from the representation of IMCAs.
7. The system for the DOLS safeguards has been successfully introduced and Best Interests Assessors are beginning to carry out assessments in hospitals.
8. Much of the credit for this falls to the Mental Capacity leads in PCTs and hospitals, who have worked hard to embed the principles of the MCA in the NHS practice.
9. The Department of Health published statistics on DOLS assessments.

<http://www.ic.nhs.uk/statistics-and-data-collections/mental-health/mental-health-act/quarterly-analysis-of-mental-capacity-act-2005-deprivation-of-liberty-safeguards-assessments-england-quarters-1-to4-2009-10>

 These show that during the first year of the Safeguards more than 1,700 people in hospitals had their deprivation of liberty independently assessed and considered by best interests assessors. 46% of those assessments resulted in an authorisation being granted.
10. There is however a wide variation in activity levels, causing concern, and it is almost certainly the case that activity levels continue to be lower than could be reasonably expected in some hospitals.

Funding

11. The Department has made funding available, over three years from 2008 - 11, for the implementation of the MCA. Funding for 2010/11 was allocated in April and is summarised at Annex A. These figures for 2010/11 are attached and the Department regards these as recurrent. How funding is provided next year is an issue for the next spending review.
12. The impact assessments:
<http://www.dca.gov.uk/menincap/legis.htm> and
http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsLegislation/DH_084982
 give the details of how the MCA and MCA DOLS allocations for the NHS were calculated for the next five years. In brief, of current allocations, the MCA component is 82% of the total and remains constant over the future. The DOLS component is currently 18% and reduces. As a result, taking the allocation in 2010 as the base line, at 100%, there is an overall reduction of 2% each year until 2015, when the MCA resources were calculated to reach steady state at 90% of current allocations.

Conclusion

13. Chief executives are reminded that they have statutory responsibility for ensuring that no NHS care or treatment is offered without the necessary DOL safeguards in situations which amount to a deprivation of liberty.
14. Any queries to this document or enclosures should be addressed to:
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ANNEX A Mental Capacity Act PCT Allocations 2010/11

PCT	Allocation(£K)
County Durham PCT	116.34
Darlington PCT	20.48
Gateshead PCT	45.95
Hartlepool PCT	21.75
Redcar and Cleveland PCT	32.24
Middlesbrough PCT	53.32
Newcastle PCT	48.37
North Tees PCT	40.10
North Tyneside PCT	56.05
Northumberland Care Trust	40.26
South Tyneside PCT	36.25
Sunderland Teaching PCT	65.59
Ashton, Leigh and Wigan PCT	67.43
Blackburn with Darwen PCT	34.41
Blackpool PCT	34.00
Bolton PCT	58.11
Bury PCT	37.13
Central and Eastern Cheshire PCT	82.68
Central Lancashire PCT	88.45
Cumbria PCT	101.52
East Lancashire PCT	81.71
Halton and St. Helens PCT	70.75
Heywood, Middleton and Rochdale PC	47.06
Knowsley PCT	40.80
Liverpool PCT	121.42
Manchester PCT	123.83
North Lancashire PCT	67.18
Oldham PCT	50.11
Salford PCT	54.40
Sefton PCT	60.90
Stockport PCT	55.21
Tameside and Glossop PCT	49.57
Trafford PCT	42.69
Warrington PCT	37.99
West Cheshire PCT	48.67
Wirral PCT	73.11
Barnsley PCT	53.69
Bradford and Airedale Teaching PCT	105.84
Calderdale PCT	39.34
Doncaster PCT	65.60
East Riding Of Yorkshire PCT	56.74
Hull Teaching PCT	58.47
Kirklees PCT	76.77
Leeds PCT	146.55
North East Lincolnshire PCT	33.52
North Lincolnshire PCT	31.16
North Yorkshire and York PCT	138.49
Rotherham PCT	53.57
Sheffield PCT	110.37

PCT	Allocation(£K)
Wakefield District PCT	73.13
Bassetlaw PCT	22.00
Derby City PCT	54.50
Derbyshire County PCT	136.78
Leicester City PCT	64.31
Leicestershire County and Rutland PC	109.58
Lincolnshire PCT	139.49
Northamptonshire PCT	124.38
Nottingham City PCT	63.15
Nottinghamshire County PCT	123.77
Birmingham East and North PCT	90.95
Coventry Teaching PCT	71.29
Dudley PCT	60.04
Heart of Birmingham Teaching PCT	68.98
Herefordshire PCT	34.39
North Staffordshire PCT	40.59
Sandwell PCT	69.82
Shropshire County PCT	53.70
Solihull Care PCT	38.18
South Birmingham PCT	74.92
South Staffordshire PCT	106.67
Stoke On Trent PCT	57.82
Telford and Wrekin PCT	31.79
Walsall Teaching PCT	55.19
Warwickshire PCT	97.66
Wolverhampton City PCT	54.77
Worcestershire PCT	101.39
Bedfordshire PCT	73.37
Cambridgeshire PCT	102.64
East and North Hertfordshire PCT	99.72
Great Yarmouth and Waveney PCT	48.56
Luton PCT	37.62
Mid Essex PCT	60.86
Norfolk PCT	140.03
North East Essex PCT	64.09
Peterborough PCT	31.72
South East Essex PCT	65.29
South West Essex PCT	78.88
Suffolk PCT	108.67
West Essex PCT	59.32
West Hertfordshire PCT	106.95
Barking and Dagenham PCT	40.55
Barnet PCT	63.14
Bexley PCT	41.17
Brent Teaching PCT	61.63
Bromley PCT	57.30
Camden PCT	55.37
City and Hackney Teaching PCT	63.28
Croydon PCT	65.96
Ealing PCT	66.08
Enfield PCT	56.22

PCT	Allocation(£K)
Greenwich Teaching PCT	54.20
Hammersmith and Fulham PCT	39.60
Haringey Teaching PCT	54.71
Harrow PCT	37.75
Havering PCT	48.43
Hillingdon PCT	47.23
Hounslow PCT	45.16
Islington PCT	49.22
Kensington and Chelsea PCT	41.56
Kingston PCT	29.43
Lambeth PCT	65.74
Lewisham PCT	56.54
Newham PCT	68.76
Redbridge PCT	46.25
Richmond and Twickenham PCT	31.50
Southwark PCT	61.60
Sutton and Merton PCT	69.63
Tower Hamlets PCT	60.06
Waltham Forest PCT	50.51
Wandsworth PCT	54.99
Westminster PCT	52.10
Brighton and Hove City PCT	55.87
East Sussex Downs and Weald PCT	65.47
Eastern and Coastal Kent PCT	149.81
Hastings and Rother PCT	38.78
Medway PCT	51.74
Surrey PCT	186.49
West Kent PCT	128.64
West Sussex PCT	123.98
Berkshire East PCT	67.57
Berkshire West PCT	76.79
Oxfordshire PCT	94.17
Hampshire PCT	223.25
Isle of Wight Healthcare PCT	31.13
Milton Keynes PCT	42.20
Buckinghamshire PCT	90.51
Portsmouth City Teaching PCT	37.21
Southampton City PCT	48.38
Bath and North East Somerset PCT	32.77
Bournemouth and Poole PCT	66.40
Bristol PCT	82.84
Cornwall and Isles Of Scilly PCT	107.67
Devon PCT	141.38
Dorset PCT	75.98
Gloucestershire PCT	106.65
North Somerset PCT	38.18
Plymouth Teaching PCT	50.81
Somerset PCT	99.27
South Gloucestershire PCT	40.66
Swindon PCT	35.63
Torbay Care PCT	31.50

PCT	Allocation(£K)
Wiltshire PCT	79.81
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