Health Policy and Performance Board – Scrutiny Group

Topic: Deprivation of Liberty Safeguards

Meeting Date: Wednesday 11 September 2019

Time: 5.30 to 7.30pm (meeting finished at 6.55pm)

Venue: Civic Suite, Runcorn Town Hall

Attendees:

- Cllr Joan Lowe
- Cllr Geoff Zygadllo
- Gill Valentine – Healthwatch Advocate
- Cllr Margaret Ratcliffe
- Cllr June Roberts
- Dr Javaid
- Helen Moir
- Steve Westhead
- Claire Richards

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Agenda/Discussions	Actions
Introductions made Minutes of the last meeting agreed Recommendation following last meeting discussed in relation to having a guide for Members and public that is accessible and jargon-free	 HM/DT
The Role of a Section 12 Doctor Dr Syed Javaid gave a presentation as an experienced Section 12 Doctor which the Council currently uses.  Dr Javaid - 11 Sept 2019.ppt Dr Javaid explained that he is an NHS consultant and a later life psychiatrist. He has been a DoLS/Mental Health assessor since 2015. He undertakes work for Halton and other authorities and has gained wide experience over this period. Dr Javaid stated that the notion of individual liberty rights goes back to wording in the Magna Carta and is a fundamental right within current legislation. Dr Javaid explained the requirements for a multi-agency approach to depriving a person of their liberty and this is where DoLS have been established, as an amendments to the Mental Capacity Act in 2009.	

He clarified that decision making is both time and decision specific. Where a person's decision-making is questioned it needs to be considered in relation to the specific decision and their state of mind at the time. He talked through principles of Mental Capacity Act and cited a 2-stage test for Mental Capacity. He pointed out that stage one doesn't automatically bring about stage two – and that this is a diagnostic test where both criteria have to be fulfilled to move forward with further assessment of the specific decision making. For an individual to be deemed to have mental capacity for decision making they must then pass all four further thresholds – being able to understand the information being presented to them, being able to retain it, being able to use it appropriately to make the decision and being able to communicate their decision as a result. He discussed the many forms that deprivations can take and gave case law details following on from the Cheshire West and Chester case which have altered the DoLS landscape. Dr Javaid explained that continuous supervision and control during care and treatment involves managing a person's whereabouts and in doing so this restricts their liberties. He stressed the importance of 'objection' as key to whether a person might be deprived or their liberty of not. Dr Javaid referenced the current restrictions of the system in terms of a DoLS being non-transferrable/setting specific. Dr Javaid expressed that he felt that the awareness and understanding of DoLS has improved over the past few years and talked about the interaction with the BIA role. Questions arising: How does Halton differ from other areas? – Dr Javaid said Halton is one of the few Local Authorities that ask for Mental Capacity as well as Mental Health assessments. He prefers this as it gives options to explore wider than one or other. He said that Best Interest Assessors in Halton tend to be more forthcoming about discussing outcomes for the individual and this assures him that services are person-centred. He said that he would rate Halton highly as still maintaining human element. Members commended this approach.	
The Role of the Advocate Gill Valentine introduced herself as working for the Healthwatch Halton Advocacy Hub, contracted to provide advocacy under Care Act, Mental Capacity Act and Mental Health Act. She said that the Hub hosts two full time and one part-time post.	

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Gill is the main Independent Mental Capacity Advocate within the team and the role is required in certain circumstances. She confirmed that advocacy can be offered under the Care Act but it is not necessarily a requirement. With Mental Capacity cases there may be a requirements for an IMCA under: • Section 39a • Section 39c • Section 39d Also as: • A Relevant Persons Representative (RPR) • A litigation friend • Or a 1.2 Representative Gill went on to explain these roles further. Section 39a – where a care home manager requests support for an individual going through a standard DoLS authorisation – advocate checks assessments have taken place appropriately – can raise concerns with BIA/Sec 12 Dr. 39a ceases once authorisation in place. 39c – standard authorisations in place and no RPR. Often times there has been an RPR in place but they are unable to continue; that's when 39c comes in. 39d – RPR in place – advocate can go in to support RPR or the service user themselves where there are challenges or where the RPR is not acting in their best interests. An application can be made to the Court of Protection to remove an RPR. Instruction is made through the supervisory body to take up a position as a paid RPR – where no other available – the advocate will then support and represent and ensure conditions of DoLS are being delivered upon. (i.e. least restrictive) Gill said the team work closely with the Safeguarding unit in Halton and will identify where people haven't got support or where they feel an unauthorised deprivations may be taking place. This can result in safeguarding referrals being made, or can see a Court of Protections case being brought. Gill finds teams in Halton very approachable – with the individual at the core of the work. It's always person-centred Litigation friend – 'not a role we in Halton at present'. Gill went on to say that the new legislation coming into effect presents new challenges but DoLS will run alongside Liberty Protection Safeguards for 12 months so there will be time to embed new practices. She expressed that the new legislation should streamline processes and	

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reiterated that code of practice is an awaited document and that this will give greater detail on how advocacy services may be affected. Gill said that her role is a very practical and diverse one and that people need support at different levels. She went on to say that because of limits to available care provisions in Halton there are some out of borough placements that are supported. Demand is getting higher and it is hoped the new legislation will alleviate the strain. Question raised: Can Members have a glossary of terms? – agreed Caseload level questioned – Gill said that being a statutory provisions the advocacy service have to provide support within a particular period however due to volume of cases this may require liaison with other services e.g. LLAMS, EMI provision. Occasionally a lag on provision does occur. Are there many out of borough placement? - Gill said that at present there are around 12. She said that these do take additional time as co-ordination and travel demands are greater. Gill reiterated that DoLS last for 12 months and support can be given throughout this full period. Do out of borough placements impacts on the service financially? Gill confirmed that out of borough impacts on timeframes for achieving workload. She cited that she always considers Article 8 of Human Rights Act when discussing out of borough placements (right to see family). Gill concluded saying that her role is very interesting but a complex job – this can be particularly pertinent in relation to family members and their impact on the sustainability of the person's placement. In handover to Claire she said that HealthWatch advocacy services are currently supporting Halton View with two cases where the family are challenging – she felt that these situations are being managed extremely well.	
The Role of the Registered Manager Claire Richards introduced herself as Registered Manager of Halton View, Widnes. She has been the Registered Manager there for just two months but has worked for Halton View previously, around 3 years ago. Claire opened by saying that there is a lot of support with the DoLS process in Halton, particularly in relation to training.	

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Claire explained that process in that when a resident moves in (normally from a hospital where the current DoLS cannot be transferred) a standard authorisation is sought through the Statutory Body. Claire reiterated the points from Dr Javaid's talk that just because a person had dementia doesn't mean they lack capacity. She said that all service users coming in to a home have a person-centred plan drawn up against their individual needs. From this referrals are made where it is felt appropriate and assessment processes are triggered. She confirmed that conditions can be put on a DoLS in relation to the individual's specific needs and that these are then discussed reguarlly and reviewed in the home. Claire stipulated that training within the home is always face-to-face, rather than e-learning. She said that Halton Best Interest Assessors are supportive. DoLS authorisation – form 5 – incorporated into an individual's care plan. They only last for 12 months and the home has a process in place for triggering review. Questions raised: Do you have problems with training people and then they leave? Claire confirmed that Halton View has a good core of staff and training is given across the board rather than having one or two seniors trained up as specialists Are members of family given information about processes? Yes, if members of a family are looking for a place in a home for a loved one they are given information and a visit takes place with the service user to assess needs and plan care. Social Workers are involved where there are perceived issues. Liberty Protected Safeguards – the consultation indicated that home managers would sign off on parts of the assessment and authorisations – how do you feel about this? Claire expressed that she would need to have all the information to hand and know about the residents' needs. Concerns were raised about the lack of scrutiny and oversight this could result in. i.e. managers 'marking their own homework' Steve Westhead clarified the situation as resolved within the new legislation with a requirement to go to AMCPs where there is an objection to deprivation plans. Claire also clarified that any concerns raised by families can be taken to advocacy services. Steve expressed the importance of the advocacy service in being the voice of the service users and an intermediary between families and the statutory body.	

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Does the Local Authority have regular meetings with the advocacy services? Helen Moir said not a present though there is a multi-agency group set-up currently (as task and finish) towards to the implementation of the Liberty Protection Safeguards. Possible recommendation – develop closer relationships between the care settings (homes), advocacy services, Section 12 Doctors and the Local Authority. Gill confirmed that on coming into her post she felt welcomed and able to develop a good relationship with the Local Authority. Gill added that advocates will do an end-point assessment towards the end of working for a person where recommendations are drawn up.	NH to note
Close The Chair thanked contributors for the time and involvement. She clarified the possible recommendations coming out to date as: • DoLS in practice document required for 'lay person' • Glossary of terms for Members • Closer working between agencies involved • Information for Cllrs on who first port of call is and how they can get relevant information when speaking to Ward constituents.	
Next meeting Agreed BIA, Finance and discussion on the implications of the new legislation.	HM to liaise with NH

Meeting closed: 18.55

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