

## Deprivation of Liberty Safeguards

Ensure the local authority continues to comply with law following the revised test supplied by the Supreme Court about the meaning of Deprivation of Liberty – 'there is a deprivation of liberty if a person is under continuous supervision and control **and** is not free to leave, **and** the person lacks capacity to consent to these arrangements'

No.	Action	Lead Officer	Target End Date	Progress	Estimated Cost £	Outcome
<b>1. Communication</b>						
1.1	Host a Leadership Session to outline and discuss the implications of the Supreme Court judgment in the <i>Cheshire West and P&amp;Q v Surrey cases</i> .	Shona McFarlane	14 <sup>th</sup> May 2014	Session scheduled to take place 14.05.14 2-4pm		Raise awareness across managers of the judicial review and its implications
1.2	Develop and share briefings for the following groups to communicate the implications of the judgement and convey the plan of action: <ul style="list-style-type: none"> <li>• Members</li> <li>• Providers</li> <li>• NAS workforce</li> <li>• CYPS workforce</li> </ul> <i>(Dependency: 1.1, 1.3, 1.4, 3.3)</i>	Amanda Coyne	23 <sup>rd</sup> May 2014	Amanda is attending a Provider Forum on 02.05.14		Raise awareness of the judicial review and the practical implications of this
1.3	Gain approval from Legal prior to communicating briefings  <i>(Dependency: 1.2)</i>	Amanda Coyne	23 <sup>rd</sup> May 2014	No progress to date		All communication is legally sound
1.4	Prepare an initial report for	Amanda	6 <sup>th</sup> May	DLT report completed 02.05.14		DLT understand the

	<p>the consideration by and endorsement of DLT (and potentially SLT) to include:</p> <ul style="list-style-type: none"> <li>• Judgement requirements</li> <li>• Scope</li> <li>• Practical / resource /cost implications</li> <li>• Recommendations (i.e. approach)</li> </ul> <p><i>(Dependency: 2.1, 2.2, 2.3, 2.4, section 3)</i></p>	Coyne Sam Newton	2014	ahead of next meeting due to take place 06.02.14		implications of the judicial review and endorse the recommended approach
1.5	Keep DLT informed on progress at regular intervals through submitting updated reports	Amanda Coyne Sam Newton	Ongoing	Initial report completed		DLT continue to understand the implications of the judicial review and endorse the recommended approach
1.6	<p>Present a report (DLT report) to the Safeguarding Adults Board and the Health and Wellbeing Board to share information</p> <p><i>(Dependency: 1.4)</i></p>	Amanda Coyne Sam Newton	End June 2014	<p>The next Safeguarding Adults Board will take place in June</p> <p>The next Health and Wellbeing Board is 4<sup>th</sup> June 2014</p>		Raise awareness of the judicial review and its implications
1.7	Ensure the RMBC website is updated with accurate/appropriate advice and information	Claire Green	End June 2014	Manchester's website has been identified as best practice – this is to be reviewed and RMBC requirements to be submitted to the Website Team		Accurate advice and information is available
1.8	Raise awareness of the	Amanda	End June	No progress to date		Raise awareness of

	judgement with Insurers	Coyne	2014			the judicial review and its implications
<b>2. Scope and resource</b>						
2.1	<p>Complete a scoping exercise to understand how many individuals the judgement will affect. This must include Adults and Children (16years+ Foster Care) and Health</p> <p>Agree membership and set up a DOLS Working Group to fully understand the scope and the implications of this across RMBC teams</p>	<p>Janine Parkin &amp; inc. rep from LD</p> <p>CYPS Commissioner</p> <p>CCG Commissioner</p> <p>Legal</p>	<p>Initial scoping exercise 6<sup>th</sup> May 2014</p> <p>Full scope June 2014</p>	<p>1,150 – RMBC funded residential beds 150 - Supported Living 16 - living in Shared Lives 32 – CYP Foster care, remand or residential</p> <p>Total 1,348</p> <p>It is estimated that 80% of this total will lack capacity – around 1,000</p> <p>Outstanding areas yet to be scoped – CHC, hospital and self-funders</p>		A clear scope is understood
2.2	<p>Review all previous DOLS applications received in the past 2 years and determine how many the judgement will affect (DOLS – institutions)</p>	Amanda Coyne	31 <sup>st</sup> May 2014	1 FTE Social Worker (from Access/Intake team) has been seconded on a months basis as a Best Interest Assessor to complete this desk top exercise		A clear scope is understood
2.3	<p>Agree an approach to assessing / reviewing individuals that are impacted upon by the judgement</p> <p><i>(Dependency 2.1, 2.2)</i></p>	Amanda Coyne Sam Newton	6 <sup>th</sup> May 2014	An approach is recommended as per the DLT report		The implications of the judgement are implemented
2.4	<p>Calculate what implication the judgment will have on</p>	Amanda Coyne	End June 2014	•4 BIA qualified Social Workers currently working in ACM	*Cost attached	The implications of the judgement are

	<p>resources and make suitable recommendations to meet the requirements of the scope. This must include a short term and long term staffing solution.</p> <p><i>(Dependency: 2.1, 2.2)</i></p>	Sam Newton		<ul style="list-style-type: none"> <li>• Pool of 6 external assessors</li> <li>• 3 qualified Mental Health Assessors, of which 2 undertake assessments on a regular basis</li> </ul> <p>It is recommended that a specialist team is required as a long-term solution, how this will be resourced will depend on completion of the scoping exercise.</p> <p>Estimated cost per year £1million*, including existing customers to revisit/reassess and new customers. Recurrent cost approximated at £700K</p> <p>*There will be further financial costs relating to commissioners, legal services, HR, additional Mental Health act assessments and implications for s117 funding.</p>	TBA ceiling cost for BIA	implemented A solution is put in place to manage the judgement both short and long term
2.5	<p>Scrutinise the Section 12 Approved Doctor List to calculate the number of Mental Health Assessors required and recruit</p> <p><i>(Dependency: 2.1, 2.2)</i></p>	Amanda Coyne	End May 2014	Scrutiny of list and draft expression of interest letter to be completed and sent by end May 2014	*Training cost, ongoing salaries	The LA is staffed with skilled professionals able to fulfil the requirements of the judicial review
2.6	Increase the Mental Capacity	Sam Newton		1 FTE BIA has been seconded	*Cost attached	The LA is staffed with

	Assessment Team with Best Interest Assessors and additional business support  <i>(Dependency: 1.4, 2.1, 2.2)</i>			to the team on a temporary basis - for one month, see 2.2		skilled professionals able to fulfil the requirements of the judicial review
2.7	Consider how the LA will advertise to employ Best Interest Assessors to conduct reviews/assessments and to train staff	Amanda Coyne Sam Newton	31 <sup>st</sup> May 2014	<ul style="list-style-type: none"> <li>Leeds Met University has offered additional training across South Yorkshire.</li> <li>Training courses planned for May 2014 – x3 staff have been enrolled to attend.</li> <li>It has been agreed that the course will be opened to more staff if required.</li> <li>X3 staff will qualify as BIAs by September 2014</li> </ul>	*Costs attached	The approach is achievable
<b>3. Policy, procedure and process</b>						
3.1	Agree and implement a process for taking DOL applications to the Court of Protection (DOL - community)  <i>(Dependency 3.2)</i>	Amanda Coyne	Ongoing	366 cases have been identified as requiring an application to the Court of Protection  Awaiting Court decision on how applications will be accepted	*Cost attached to submitting applications	A consistent approach to applying the requirements of the judicial review is taken
3.2	Implement the published Practice Guidance on how the Court of Protection will receive the DOL application	Amanda Coyne	Ongoing	Awaiting Court decision on how applications will be accepted	*Cost of submitting application(s)	A consistent approach to applying the requirements of the judicial review is taken
3.3	Develop a set of criteria to prioritise cases and seek endorsement of the approach from DLT	Amanda Coyne	6 <sup>th</sup> May 2014	It is recommended that prioritisation is based on urgency and placing (care homes and hospital).		Criteria is applied consistently to ensure a pragmatic approach to meeting the

				For more detailed recommendations see DLT report		requirements of the judgement
3.4	Develop and implement a placement protocol for staff to follow	Amanda Coyne Michaela Cox	31 <sup>st</sup> May 2014	Draft protocol completed, approval to be sought at the Leadership Session (14 <sup>th</sup> May 2014)		A protocol is applied consistently to ensure a pragmatic approach to meeting the requirements of the judgement
3.5	Develop and implement a process for accepting DOLS cases with agreed timescales  <i>(Dependency 3.3)</i>	Amanda Coyne	31 <sup>st</sup> May 2014	A process has been drafted, endorsement required from DLT to apply it in practice		A process is applied consistently to ensure a pragmatic approach to meeting the requirements of the judgement
3.6	Review and revise Standard DOLS Forms to ensure that they are less bureaucratic, simplified and reduce the time taken to complete	Amanda Coyne	31 <sup>st</sup> May 2014	Sheffield Council is due to circulate an approach – this is to be reviewed against RMBC current forms		The process is supported to be effective and efficient
3.7	Review and update the Mental Capacity Act and DOLS Policies and Procedures	Amanda Coyne Sam Newton	End August 2014	No progress to date		Policies and procedures are up to date and relevant
<b>4. Contracts and Regulatory Bodies</b>						
4.1	Review the Independent Mental Capacity Advocate and Paid Representative contracts (held with RAP and Age UK) in line with the judgement	Janine Parkin	June 2014	This action is recommended in the DLT report  No progress to date		Revised contracts reflect the judgement

4.2	Ensure expectations from CQC are applied in practice and shape the approach taken to implementing the judgement	Amanda Coyne Sam Newton	31 <sup>st</sup> May 2014	Complete – discussion has taken place and CQC has endorsed RMBC approach.  Approach has been included in the DLT report for information		The LA approach is consistent with inspection expectations
<b>5. Funding</b>						
5.1	Explore funding opportunities from central government	Mark Scarrott	June 2014	No progress to date		