

Lancashire County Council

Cabinet Committee on Performance Improvement

Wednesday, 4th February, 2015 at 10.00 am in Cabinet Room 'D' - The Henry Bolingbroke Room, County Hall, Preston

Agenda

Part I (Open to Press and Public)

No. Item

1. **Apologies for Absence**
2. **Disclosure of Pecuniary and Non-Pecuniary Interests**

Members are asked to consider any Pecuniary and Non-Pecuniary Interests they may have to disclose to the meeting in relation to matters under consideration on the Agenda.
3. **Minutes of the Meeting held on 11 December 2014** (Pages 1 - 6)
4. **Response to Ofsted Inspection of Adult Learning**

Report to follow.
5. **Deprivation of Liberty Safeguards (Dols)** (Pages 7 - 50)
6. **Corporate Human Resources - Health Check Report** (Pages 51 - 62)
7. **Achievement of Looked After Children in Lancashire** (Pages 63 - 72)
8. **Urgent Business**

An item of Urgent Business may only be considered under this heading where, by reason of special circumstances to be recorded in the minutes, the Chairman of the meeting is of the opinion that the item should be considered at the meeting as a matter of urgency. Wherever possible, the Chief Executive should be given advance warning of any Members' intention to raise a matter under this heading.
9. **Date of Next Meeting**

The next meeting of the Cabinet Committee will take place on Thursday 12 March 2015 at 2.00pm in the Diamond Jubilee Room – Cabinet Room 'B', County Hall, Preston.

10. Notice of Intention to Conduct Business in Private (Pages 73 - 74)

Notice is hereby given in accordance with Regulations 5(4) and 6 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 that this meeting is likely to move into private session to consider the item listed as Quarterly Report on the Service Delivery and Performance of the County Council's Waste Disposal Company.

11. Exclusion of the Press and Public

The Committee is asked to consider, whether, under Section 100A(4) of the Local Government Act, 1972, it considers that the public should be excluded from the meeting during consideration of the following items of business on the grounds that there would be a likely disclosure of exempt information as defined in the appropriate paragraph of Part 1 of Schedule 12 to the Local Government Act, 1972 as indicated against the heading to the items, and that in all circumstances of the case the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Part II (Not Open to Press and Public)

12. Quarterly Report on the Service Delivery and Performance of the County Council's Waste Disposal Company (Pages 75 - 92)

I Young
County Secretary and Solicitor

County Hall
Preston

Agenda Item 3

Lancashire County Council

Cabinet Committee on Performance Improvement

Minutes of the Meeting held on Thursday, 11th December, 2014 at 11.00 am in Cabinet Room 'C' - The Duke of Lancaster Room, County Hall, Preston

Present:

County Councillor Jennifer Mein (Chair)

County Councillors

D Borrow
B Winlow

M Tomlinson
G Driver

1. Apologies for Absence

None received.

2. Disclosure of Pecuniary and Non-Pecuniary Interests

None declared.

3. Minutes of the Meeting held on 1 October 2014

Resolved: - That, subject to the amendment of 'implantation' to implementation' on page 3, the minutes of the meeting held on 1 October 2014 be agreed as a true and accurate record and be signed by the Chair.

4. Implementation of the Procurement Service Implementation Plan

Ben Kinley, Head of Business Improvement, and Paul Fairclough, Senior Category Manager, Lancashire Procurement Service, attended and presented the first quarterly progress report on the implementation of the Procurement Service Improvement Plan.

It was reported that, following the return of the Procurement Service to the County Council, a Service Improvement Plan (Appendix 'A' to the report) had been developed and Cabinet had, in October 2014, approved a new Procurement Strategy for the County Council. A Procurement Board, at Director level, had also been established and work was progressing to maximise the benefits of electronic systems, allowing suppliers to register for, and use, appropriate County Council IT systems.

Appendix 'B' set out a dashboard of Key Performance Indicators to enable performance against the objectives in the Procurement Strategy to be monitored.

It was noted that a Procurement Board had previously existed and that this was, therefore, a re-establishment of that Board. It was also clarified that, no contracts had been extended since the blanket waiver of Procurement Rules approved by Cabinet on 8 May 2014, rather than since the return of the service to the County Council as suggested in the report.

In respect of payment performance, it was noted that where the County Council could offer quick payments to suppliers, there was scope for the County Council to be able to take advantage of discounts and avoid late payment penalties. Further information on performance in relation to prompt payment and supporting Small and Medium Enterprises (SMEs) would be available as part of the next progress report.

It was also suggested that information potentially be included in future reports regarding savings made relating to improved procurement practices and performance.

Resolved: - That:

- (i) Subject to the comments made, the report, now presented, be noted;
- (ii) A further update report be considered at the meeting of the Cabinet Committee on 12 March 2015.

5. Quarterly Corporate Performance Monitoring and Improvement - Quarter 2 2014/15 Report

Michael Walder, Senior Policy and Performance Officer, Corporate Policy and Performance Team, gave an overview of corporate performance monitoring for quarter two of 2014/15, i.e. July - September 2014, which detailed that 68% of the total number of Directorate Key Performance Indicators were performing well and on track/target and/or improving. The report also set out brief updates on a number of performance highlights, some of which were the subject of reports at this meeting, with others scheduled for consideration at future meetings of the Cabinet Committee.

Eddie Sutton, Assistant Chief Executive, attended and presented details of actions being undertaken to address under performance in relation to the Blue Badge Scheme where complaints had increased from 0.11% to 0.39% from quarter one to quarter two against a target of 0.25%.

It was reported that the Scheme was currently administered by two separate areas of the County Council; enquiries were dealt with by the Customer Access Team with the administration of the scheme undertaken by the Documents and Records Management Service. Of the overall small number of complaints received, Telly Talk was the subject of the majority, eight in quarter one and six in quarter two. Telly Talk was an online service available in a number of establishments across Lancashire but it was recognised that the technology was out of date and in need of replacement, and that the location of the facilities within establishments did not provide any privacy for users. Specific reference

was made to the Telly Talk facility in the Minerva Centre, an NHS establishment in Deepdale, Preston which had been removed following a refurbishment of the building. Proposals to address the Telly Talk issues would shortly be considered by the County Council's Management Team. It was noted that lack of internet access at home to apply for a Blue Badge rather than via other methods (including using Telly Talk) was often linked to the most vulnerable and that this was a group which was less likely to make complaints about the service.

Resolved: - That:

- (i) The report, now presented, be noted;
- (ii) A further update on the Blue Badge Scheme be considered at the meeting of the Cabinet Committee on 12 March 2015.

6. Health Assessment Recovery Plan - Children Looked After

Diane Booth, Head of Children's Social Care, Directorate for Children and Young People, and Debbie Ross, Associate Head of Safeguarding/Designated Nurse CLA, NHS East Lancashire Clinical Commissioning Group, attended and presented a further report updating on the recovery plan for health assessments completed for Children Looked After.

It was reported that a full recovery plan was now in place and that further barriers to improving performance that had emerged since the last report to the Cabinet Committee on 1 October, had now been addressed.

It was reported that tracking and monitoring of progress was being undertaken at team level with a number of reporting steps in place, including to the Corporate Parenting Board. Some 1,000 Children Looked After now had a health assessment in place but a backlog of 215 would impact on performance in this year. Reference was made to 1.7% of Children Looked After who did not wish to have health assessments but that steps were being taken to ensure that they had access to primary health services such as a GP and dental services and to signpost them to other services if necessary. Out of county placements of Lancashire Children Looked After could be more challenging.

Resolved: - That:

- (i) The report, now presented, be noted;
- (ii) A further report be considered at the meeting of the Cabinet Committee on 8 June 2015.

7. Ofsted Inspection of Lancashire Adult Learning

It was reported that consideration of this item had been deferred to the next meeting of the Cabinet Committee on 28 January 2015.

8. Urgent Business

There was no urgent business to be considered.

9. Date of Next Meeting

The Cabinet Committee noted that the next meeting would be held on Wednesday 28 January 2015 at 2.00pm in Cabinet Room 'B' - The Diamond Jubilee Room.

10. Notice of Intention to Conduct Business in Private

Resolved: - That the Notice of Intention to Conduct Business in Private be noted.

11. Exclusion of the Press and Public

It was agreed that the report under consideration did not contain the anticipated information that would lead to a likely disclosure of exempt information as defined in the appropriate paragraph of Part 1 of Schedule 12A to the Local Government Act 1972.

Resolved: - That the following item of business be considered under Part I (Open to Press and Public).

12. BT Lancashire Services Limited Service Governance and Performance Monitoring Report

Gabby Nelson, Client Manager, Business Change Team, and Mark Mayer, Chief Operating Officer, BT Lancashire Services Ltd, attended and presented a report setting out the first update on the revised BT Lancashire Services Limited (BTLS) Service Governance and Performance Monitoring arrangements since the changes to the County Council's strategic partnership with BT, which came into effect on 1 April 2014.

The report covered the first two quarters of operation of the new arrangements in respect of the services that remained within the strategic partnership, i.e. ICT and Payroll and Recruitment. Key activity included:

- The delivery and installation of ICT hardware to facilitate the return of the first tranche of staff into the newly refurbished Christ Church Precinct, County Hall, Preston;
- Internet Protocol TV in the Christ Church Precinct;
- Public Services Network accreditation;
- Successful launch of a single vacancy site combining both Lancashire County Council's and BT Lancashire Services' vacancies;
- Multiple projects in relation to Oracle updates for various groups of employees.

In respect of Key Performance Indicators (KPIs), it was reported that a non-contractual performance measure for ICT Services would be introduced relating to milestone delivery for key projects, such as Oracle. Reference was made to the asset management programme, quarterly meetings between BTLS's Chief Operating Officer and the County Council's Assistant Chief Executive to consider Quality of Service Reports, and the implementation of Liquid Logic for adult and children's social care which was undergoing a post implementation review to address outstanding issues.

Reference was made to the inclusion of BTLS in the County Council's successful Investors in People re-accreditation and ongoing work to develop staff engagement and introduce 'Pioneer', a BT leadership development programme.

In response to points raised around the review of Key Performance Indicators, it was confirmed that, in respect of core systems, all front end and back office modules and processes were being reviewed but that the whole process would take a number of months to complete.

Further information providing a more comprehensive measurement of service delivery was set out at Appendix 'A' to the report.

Resolved: - That:

- (i) The report, now presented, be noted;
- (ii) A further update report be considered at the meeting of the Cabinet Committee on 8 June 2015.

I Young
County Secretary and Solicitor

County Hall
Preston

Agenda Item 5

Cabinet Committee on Performance Improvement

Meeting to be held on 4 February 2015

Electoral Division affected: All

Deprivation of Liberty Safeguards (Dols)

(Appendices 'A' to 'D' refer)

Contact for further information:

Anita Lindon, (01772) 535444, Adult Services, Health and Wellbeing Directorate

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Executive Summary

The report gives an overview of the situation regarding Deprivation of Liberty and the legal requirements of the Local Authority in this process (Appendix 'A' - What are the Deprivation of Liberty Safeguards (Dols)). It outlines the pressures we are facing since the Supreme Court ruling of March 2014 which increased the number of people who now come within the remit of Deprivation of Liberty legislation. The financial pressures on Lancashire as a result of this ruling are still being assessed but they will be significant and ongoing.

Deprivation of Liberty for those over the age of 18 can only be authorised by the Deprivation of Liberty Safeguards (Dols) or by the Court of Protection.

We have seen application rate for Dols rise from around 350 in 2013/14 to over 1,700 since April 2014 when the impact of the Supreme Court ruling began to take effect.

The process is complex and specialist knowledge and skills are required. The Dols process can be seen at appendix A.

Nationally the impact of the increase in Deprivation of Liberty activity is still being assessed but the consensus is that local authorities will face a severe financial burden which will continue to increase over coming years.

Recommendation

The Cabinet Committee on Performance Improvement is recommended to note and comment on the contents of this report.

Background and Advice

Deprivation of Liberty Safeguards (Dols) is a legal framework for preventing the unlawful detention of anyone over the age of 18 who lacks capacity to make decisions on their residence if they are in a care home or hospital, and was implemented on 1 April 2009. Dols is a lengthy and complex process but offers

protection of article 5 of the Human Rights Act to all citizens. Article 5 is the right to Freedom, Liberty and Security. Dols process has legally set deadlines for completion of assessment process. Lancashire has had a dedicated Dols team since February 2009 and the team has built up a degree of skill and expertise that is used as a resource for County Council staff, providers of services we commission and Health colleagues as well as service users and their families.

Recent changes and developments

Since March 2013 Lancashire County Council has the responsibility for assessment of people who meet Dols criteria in hospitals as well as residential care homes.

In March 2014 the Supreme Court gave a ruling in the cases of P v Surrey and Cheshire West Councils that changed the landscape for Dols significantly. The ruling (referred to as the 'Acid Test') means that many more thousands of people will now be identified as being deprived of their liberty by their care arrangements, the key to which is someone not having mental capacity to agree and being subject to continuous supervision and control and not free to leave they are deprived of liberty.

The ruling has resulted in additional work for the Coroners services; a death of someone whilst subject to a Dols authorisation is deemed to be a Death in Custody. Given that the majority of 'new' Dols authorisations will be for people in very frail states of health it is extremely likely that there will be significantly more deaths in custody and Coroner inquests.

The paperwork associated with Dols is weighty: even with the new forms there is still a complicated administration process that underpins Dols. The Supervisory Body has legal responsibilities re: ensuring certain people have copies of assessment and authorisation documentation.

An authorisation can only last a maximum of 12 months: if deprivation of liberty needs to continue beyond this time then the whole process has to be undertaken again for the 'renewal' of the authorisation.

Application increases

Since April 2014 the rate of Dols applications nationally has risen dramatically. DoLS applications have risen from a Q3 average of 31 per month in 2013/14 to 279 per month in Q3 2014/15.

DoLS Applications	2013/14 Q3					2014/15 Q3				
	Oct	Nov	Dec	Tot	Avg	Oct	Nov	Dec	Tot	Avg
Valid Applications	24	27	26	77	26	160	200	223	583	194
Invalid Applications	5	6	5	16	5	76	84	94	254	85
Total Applications	29	33	31	93	31	236	284	317	837	279

Invalid forms still need the same amount of time to check and to contact the care home or hospital to determine if they are not as valid as all other applications. Applications can be invalid for a number of reasons:

Lancashire actions thus far have proved to be in line with recommendations from ADASS, the Local Government Association (LGA), Department of Health (DoH) and Care Quality Commission (CQC), we have:

- trained additional BIAs (training has to be accredited by the DoH and is to post graduate standard) and:
- increased our resource of independent BIAs and Mental Health Assessors.

It is proving challenging to keep up with the volume of applications received. We currently have in the region of 11,000 care home places in Lancashire: if only 80% of those places are resulting in deprivation of liberty that equates to 8,800 people indicating a significant gap between those applications received to date and those yet to come.

There is no alternative to Dols process – it is a legal requirement of all local authorities.

Deprivation of Liberty in the person's own home:

The Dols legal process only applies to care homes and hospitals but a person can be deprived of liberty in their own home (supported living, Shared Lives, family home). Deprivation of liberty in these situations can only be authorised by direct application to the Court of Protection. If the County Council is funding the care, then the County Council will be the Applicant and will bear the majority of court costs. If the person is funded by Health, they will be the Applicant, but the County Council will still likely be joined as a Party if we have had any involvement in the person's care assessment. Whichever circumstance, the costs to the County Council are significant. There is no automatic entitlement to legal aid for the service user or their family.

A very rough estimate of the numbers who may meet the above criteria is a minimum of 700 people. Further work is required to complete the scoping of numbers.

Consultations

This report is based on practical knowledge of legislation; keeping up to date with legal developments and requirements; consultation with other local authority and Health leads for Dols and the Mental Capacity Act.

Implications:

Legal

Not discharging our legal duty to comply with the Dols process may result in a costly damages claim and a loss of reputation.

It appears to be widely agreed that if local authorities can show they have plans in place, and are actively engaged in trying to meet their legal obligations, then the risk of legal penalties should be minimised but this is not guaranteed (Appendix 'B' - DH letter from Niall Fry January 2015). A number of legal firms are actively asking care homes if their requests for Dols assessments are being met in the legal timeframe. We are following ADASS guidance around managing this situation outlined in Appendix 'C' - ADASS Advice Note November 2014.

Financial

The costs for implementing authorisation for deprivation of liberty (either in own home or care home or hospital) is likely to cost local authorities millions of pounds if we address everyone who meets the criteria, creating an unsustainable pressure on local authorities (Appendix 'D' - ADASS/LGA letter to Norman Lamb).

The cost of Dols thus far is £128,623.86 up to December 2014: this includes costs of Mental Health Assessors (£175 per case) and independent BIAs (average cost £360 per case). This does not include the running costs of the Dols team. As of 31st December 2014 there were 1,093 unassessed cases that will all require at least the cost of a Mental Health Assessor: this alone equates to £191,275.

These costs do not include those cases of supported living that need to go direct to Court of Protection: on a recent FOI request (6 months ago) the average cost of a Court of Protection application was £4,000 plus legal costs.

With the new streamlined process it is likely that the cost could be brought down to £1,000 plus legal costs.

Long term costs are unknown as we will be going back to the Court of Protection for an annual review every 12 months.

Human Rights

Deprivation of liberty is primarily concerned with Articles 5 and 8 (Right to Privacy and Family Life).

Risk management

The risks to the council being sued for unlawful deprivation of liberty increase as times goes on. Although we have taken action to mitigate this risk we still have a long way to go before we can make sure we fulfil our legal responsibilities in the timescales demanded. The letter from DoH (set out at Appendix 'B') does indicate that those councils actively engaged in developing services and working to full compliance with the increased demands will have their risk minimised, but we cannot say this will be guaranteed, and the council does run the risk of being sued for allowing unlawful deprivation of liberty to occur.

Actions taken thus far to comply with the ruling include:

- training another 13 Best Interests Assessors since summer 2014:
- increasing our pool of independent BIAs and Mental Health Assessors:
- increasing funding for Independent Mental Capacity Advocates:
- recruiting additional staffing to undertake management of supported living applications to Court of Protection:
- introduction of a priority rating tool (approved by ADASS) to ensure we continue to prioritise and protect the most vulnerable people:
- working with providers to ensure they fully understand the Dols process:
- working with Coroners offices to establish a protocol for managing deaths in custody in a compassionate but lawful way:
- establishing a forum with health colleagues to share knowledge and skills: ensuring that staff keep up to date with case law developments that may require changes to our practice:
- continuous review of our processes to keep them as efficient as possible.

Despite the above we are not compliant with the ruling, but we can demonstrate that we are working hard to do so within our limited resources.

List of Background Papers

Paper	Date	Contact/Directorate/Tel
N/A		
Reason for inclusion in Part II, if appropriate		
N/A		

What are...
***the Deprivation
of Liberty
Safeguards (DoLS)?***

What are ...

the Deprivation of Liberty Safeguards (DoLS)?



Sometimes care homes and hospitals have to limit people's freedom to keep them safe. The Deprivation of Liberty Safeguards (DoLS) provide a legal framework that helps to ensure the person's human rights are protected. The DoLS are part of the Mental Capacity Act 2005. They say that people can only be deprived of their liberty when they lack mental capacity to make decisions about their care and accommodation, and it is in their best interests.

The DoLS were introduced in 2007 after a European Court of Human Rights ruling. The ruling found that a man with autism had been unlawfully deprived of his liberty in Bournemouth Hospital because the hospital had not used any legal framework to detain him. This had meant that his carers experienced real difficulty in trying to get him released from the hospital, as there was no system to appeal against his admission.

How do ... *they work?*



In 2014 the Supreme Court said that a person is deprived of their liberty if they are under continuous supervision and control and are not free to leave. A person can be deprived of their liberty even if the restrictions are in their best interests, and where they are not objecting.

Care homes and hospitals must apply to their local authority for authorisation to deprive a person of their liberty.

The authority must send out two independent assessors to assess whether the qualifying requirements for the DoLS are met. The mental health assessor must be a specially trained doctor. The 'best interests' assessor will talk to the person and their family and friends about the person's best interests, and consider whether deprivation of liberty is a necessary and proportionate response to any risks.

If a person has a Lasting Power of Attorney or deputy for welfare decisions, then they can only be deprived of their liberty under the DoLS with their agreement. If a person has made an Advance Decision refusing a particular treatment, then the DoLS cannot be used to deprive them of their liberty to deliver this treatment.

If authorisation is granted, a 'representative' will be appointed to help the person to exercise their rights. This is often a relative, but it could be somebody with experience acting as an advocate. The person and their representative are entitled to help from an 'Independent Mental Capacity Advocate' (IMCA).



The detained person and their representative have a right to request a review by the local authority. They are also entitled to legal aid to appeal against the deprivation of liberty authorisation in the Court of Protection. The court will review whether the person lacks capacity and whether the detention is in their best interests. Sometimes the DoLS can run into tricky technical questions, and the court can determine these.

How do ...

I know if things are working well?

Care homes, hospitals and commissioners work closely with people and their families to resolve concerns and disputes.

Providers seek authorisation, even if there is some doubt about whether a person is deprived of their liberty or not, to help ensure the person's rights are protected.

DoLS assessors are impartial and understand that an unwise decision is not the same as lacking capacity.

Best interests assessors consult properly with friends and family about their views and make sure any disagreements or alternative placements are properly considered and recorded.

People who are deprived of their liberty and their representative are offered support from an IMCA and a referral is made if they need help to exercise their rights.

Where there is significant disagreement about whether a person should be deprived of their liberty, local authorities apply to the Court of Protection for an independent review of the issues.

Practical advice



Sometimes deprivation of liberty occurs in settings other than care homes and hospitals, for example in supported living. If that occurs, providers and the local authority must seek authorisation directly from the Court of Protection. If you are worried somebody in supported living or a similar setting is deprived of their liberty you should inform the provider and the local authority.

Don't be afraid to exercise your right to request a review or apply to the Court of Protection if there is a serious disagreement. Advocates may be able to help you locate a solicitor.

If you think somebody may be deprived of their liberty without proper authorisation, ask the care provider to apply to the local authority for authorisation.

If a DoLS application is made for a relative, and you support their care plan, remember that the authorisation means that an independent assessor agrees that the care is in their best interests.

If you are subject to the DoLS, or represent somebody who is, an IMCA can help you with understanding the process and your rights.

More information can be found in the DoLS code of practice.

Councils have to ensure that people who are unable to make their own decisions about where they live are safeguarded from having their liberty restricted. It is essential that the public, families and carers understand what these safeguards are.

This guide provides a jargon-free introduction to the Deprivation of Liberty Safeguards (DoLS), explains how they work and sets out what to expect.

This guide has been produced by Research in Practice for Adults. We are a charity that uses evidence from research and people's experience to help understand adult social care and improve how it works.

Author: Lucy Series

Many thanks to: Ann Brooking, Esther Donald, Johnson Koikkara, John McCarthy and Rachel Hubbard for their comments on this resource.

www.ripfa.org.uk

Updated July 2014



Mr Niall Fry
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14 January 2015

To: MCA-DoLS leads in local authorities and the NHS

Dear Colleague,

Update on the Mental Capacity Act and following the 19 March 2014 Supreme Court judgment

I wanted to write to you with an update on developments following the 19 March 2014 Supreme Court judgment and also on developments concerning the wider Mental Capacity Act 2005 (MCA) following the House of Lords Select Committee report and subsequent Government response.

Mental Capacity Act

Following the publication in June 2014 of the Government response¹ to the House of Lords report, the Department and our partners have been focussing on taking forward our commitments. Of particular note for the coming weeks and months:

- The Government has now confirmed its intention to establish a new “**National Mental Capacity Forum**”. This Forum will bring stakeholders from health and social care together with those from other sectors (for example, finance, legal, police, housing) to identify complementary actions that member organisations can pursue, especially at a local level, to improve MCA implementation. We shall begin the recruitment of an independent chair for the Forum as soon as possible. Please get in touch with me if you are interested in joining the Forum.
- A new on-line “**MCA Directory**” containing MCA tools and guidance for all sectors will be launched on the web-site of the Social Care Institute of Excellence (SCIE) by the end of February. We hope that this resource will provide a spur to local implementation efforts. There is still time to submit your materials to SCIE. Please send them by email to mca@scie.org.uk.
- On 13th March 2015 the “**Chief Social Worker’s MCA Seminar**” will bring social workers together with other professionals to share learning, best practice, and concerns/ challenges face-to-face. We also hope this event will kick-start local multi-agency collaborations to raise MCA awareness. Further details, including how to express your interest in attending plus a useful summary of social

¹ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/318730/cm8884-valuing-every-voice.pdf

workers thoughts on how social work can help drive better MCA implementation can be found in the enclosed letter from Lyn Romeo.

The coming year will be a busy one as we seek to build on the opportunity provided by the House of Lords report. I have spoken with a number of you about the benefits of ensuring good communication from the national through the regional and to the local level. As you may be aware, the national organisations with a key role in MCA implementation sit on a DH-led MCA Steering Group that meets every few months.

You may be interested in a few documents this group has produced and which I have enclosed with this letter:

- A “**statement of ambition**” that describes the aims of the MCA Steering Group and which all member organisations have signed up to.
- A description of the **roles and responsibilities** of each member organisation of the MCA Steering Group. We hope this may assist stakeholders in understanding which organisations to look to for specific assistance.
- A document entitled “**MCA expectations**”. This is our attempt at a list of key MCA attributes that stakeholders can consult and consider addressing when preparing guidance, toolkits etc. Any comments welcome.

To help keep you and other colleagues up to-date with developments at the national level I intend to post Twitter updates (@NiallatDH). Please look out for these and feel free to re-tweet to your colleagues.

Of course, communication works both ways, especially as the key driver of better MCA implementation will be local level action. Please do feed your local updates up to your regional leads. I will be meeting with regional leads throughout the year to ensure that what we do nationally is informed by your needs. The list of regional MCA leads is attached at Annex to this letter.

Supreme Court judgment

The official statistics from the Health and Social Care Information Centre (HSCIC) paint a clear picture of the very significant increase in Deprivation of Liberty Safeguard (DoLS) applications since the 19 March 2014 Supreme Court judgment. Over 55,000 applications in the six months following the judgment points to a more than 8 fold-plus increase on 2013-14 figures. (The next data set is due for release on 3 February 2015).

Let me put on record again the Department’s thanks for the impressive response you and your teams have made to this challenge. I hope that as you reflect on the last nine months you will take comfort from the knowledge that thousands more individuals have received valuable scrutiny of the conditions of their care.

The Department continues to stress the importance of an MCA-centred approach to the challenge posed by the Supreme Court judgment. The focus should always be on the individual and supporting their well-being. The Department is aware that many local authorities are struggling to meet legal deadlines for processing applications and that local authorities are working hard across a number of different areas and priorities (for example, implementation of the Care Act). We do not expect that local authorities who are following national DH, ADASS and CQC guidance (and who have a plan in place for responding to the Supreme Court judgment in a way that makes clear that paramount importance of the well-being of vulnerable individuals) should be unfairly penalised.

The CQC will be publishing its annual DoLS report shortly and will be reflecting on the Supreme Court judgment and the challenge for the year ahead.

I am pleased to confirm that the new standard forms supporting the DoLS process have now gone live. I hope that the reduction in the number of these forms from 32 to 13 will help your teams negotiate the significant extra number of applications. The forms can be found at the following link and new short guidance on their use will be available shortly. Although these forms are not prescribed by statute I would strongly encourage you to use them. There are clear benefits in all local authorities and managing authorities operating from the same set of forms.

<http://www.adass.org.uk/mental-health-Drugs-and-Alcohol/key-documents/New-DoLS-Forms/>

I am also happy to say that new guidance from the Law Society to assist practitioners in understanding what may constitute a deprivation of liberty following the Supreme Court judgment is in the final stages of production and will be available by the end of February.

In addition, the revised Code of Practice for the Mental Health Act will be published shortly. The Code includes a new chapter on the interface between the Mental Health Act and MCA-DoLS which you will want to take note of. The new Code will be available online – I will post a twitter message to alert you.

Finally, I am particularly grateful to ADASS for leading the Task Group that has been examining practical solutions and assistance for local authorities. Their most recent guidance note – including a helpful DoLS application prioritisation tool – can be found at the link below.

http://www.adass.org.uk/uploadedFiles/adass_content/policy_networks/mental_health/key_documents/DoLS%20Guidance%20note%20November%202014.pdf

A good place to find resources to assist your response to the Supreme Court judgment is the Mental Capacity Law and Policy website. It includes further links to CQC briefing, guidance from the Intensive Care Society, and details of the new (and now live) system for Court of Protection applications from community settings.

<http://www.mentalcapacitylawandpolicy.org.uk/resources-2/cheshire-west-resources/>

Specific implications

The Supreme Court judgment continues to have a number of knock-on implications in addition to the increase in applications. In all these cases, our priority is to establish a proportionate approach that prioritises the well-being of the individual who may lack capacity; considers closely the wishes and feelings of family, friends and carers; and which ensures the system as a whole focuses on delivering care, support and scrutiny that benefits the individual. In short, we do not wish a system that puts paperwork before people.

Palliative care

One area that has caused particular concern is that of palliative care. For the purpose of this guidance, we consider palliative care to be concerned with the last few weeks of life.

The first thing to say here is that if a person receiving palliative care has the capacity to consent to the arrangements for their care, and does consent, then there is no deprivation of liberty.

Furthermore, if the person has capacity to consent to the arrangements for their care at the time of their admission or at a time before losing capacity, and does consent, the Department considers this consent to cover the period until death and that hence there is no deprivation of liberty. (An important exception would be if the care package to which the individual consented were to change in a manner that imposed significant extra restrictions or which included care contrary to the previously expressed wishes and preferences of the individual. In such circumstances, the individual's consent is unlikely to cover the changed care and an application for a DoLS authorisation or a Court of Protection order may be required if there is or will be a deprivation of liberty.)

Where an individual lacks capacity and there is no valid consent, there will be no deprivation of liberty unless the Supreme Court judgment "acid test" is met:

- Are they "free to leave"? Just because they are physically unable to leave of their own accord does not mean they are not free to leave for the purpose of the test – they may for example be able to leave with family assistance.
- Are they under "continuous control and supervision"? If the individual is in a private room and checked only every few hours then they may not necessarily be under continuous control and supervision.

In providing this guidance we would make clear that a person who lacks capacity and is receiving palliative care is entitled to the same rights under the law as every other citizen. Such individuals can indeed have a care and support package that results in a best interests deprivation of liberty. If there is no valid consent, and the acid test is met, such a deprivation of liberty must be authorised. Managing authorities and local authorities must be alert to this.

We must remember that the reality on the ground is, that in the great majority of palliative care cases, the family and loved ones of the individual concerned do not recognise any "deprivation of liberty" in a conventional sense. Rather they see a normal care situation. Practitioners will be only too aware that an unnecessary DoLS assessment could cause considerable distress to the family with no benefit to the individual.

Meaning of "mental disorder"

It is important to remember that standard authorisations can only be given under Schedule A1 of the MCA if the person concerned is suffering from mental disorder within the meaning of the Mental Health Act (but disregarding any exclusion for persons with learning disability), and therefore meets the mental health qualifying requirement to be eligible for an authorisation.

It may be helpful for you to be aware that the Department of Health does not consider a state of unconsciousness in itself as being a mental disorder. As such, we would not consider that an individual who is unconscious and who does not have a mental disorder would be eligible for a standard authorisation.

Coroner's investigations

You may be aware that the Chief Coroner recently issued guidance to coroners on the Supreme Court judgment. This can be found at the link below.

<http://www.judiciary.gov.uk/wp-content/uploads/2013/10/guidance-no16-dols.pdf>

In this guidance, the Chief Coroner notes his view (which is not binding on local coroners) that the death of an individual who is subject to a DoLS authorisation (or a relevant Court of Protection Order) is, under the law, classified as a death in “state detention” and as such the death should be subject to a coroner’s investigation.

The Department of Health recognises the current law and the view of the Chief Coroner regarding state detention. We do wish to note, however, that while the death of an individual who is subject to a DoLS authorisation (or a relevant Court of Protection Order) may in legal terms be a death in “state detention” - and while we of course would fully support a robust investigation where there may be suspicion of any untoward factors - it is important to recognise that on the ground and for the family, in the great majority of cases, the death has occurred in a “normal” care environment.

Where it is clear that there is no suspicion of untoward factors contributing to the death, we would hope that any inquest puts the least possible stress on the family and is completed as rapidly as possible. DH and the CQC have heard concerns of bereaved families being visited by uniformed police officers assigned to investigate deaths on behalf of the coroner or of delays in releasing the body of a loved one to their family. We would strongly urge that such situations be avoided wherever possible.

It is likely to be of great benefit for coroners to keep in close communication with the DoLS Lead in their local authority so that they can ensure a consistent message is given to providers and so that they can work together in dealing with the considerable extra activity as a result of the Supreme Court judgment. Part of the challenge in responding to the Supreme Court judgment is in raising awareness with our partners of the true nature of DoLS. For example, that DoLS does not cause a deprivation of liberty, rather it exists to ensure that any deprivation of liberty is in the best interests of the individual concerned.

Deprivations of liberty in the community

I’m sure you will be aware that on 17 November 2014, a new streamlined process went live for applications to the Court of Protection to authorise deprivations of liberty outside of care homes and hospitals. This is known as the “Re X procedure” and is supported by a new Court of Protection application form and a new practice direction. The following guide produced by 39 Essex Street is a useful reference and contains links to the relevant documents:

http://www.39essex.com/docs/newsletters/judicial_deprivation_of_liberty_authorisations_guide.pdf

The Court of Protection will be monitoring the number of applications received and clearly the Department will be studying these closely to determine the level of applications made under this new process. As with DoLS applications we urge a proportionate, risk-based approach that seeks to identify individuals who stand to benefit most from this additional scrutiny and ensure these individuals receive timely access to the Court.

It is already clear that local authority MCA-DoLS teams (already processing increased numbers of DoLS applications) and NHS organisations (who may also be making applications to the Court on behalf of service users) will need the assistance and engagement of local partners in identifying these individuals in community settings potentially deprived of their liberty. Implementing the MCA and DoLS is a shared responsibility for all professionals caring for and treating those who may lack capacity.

Best Interest Assessors operating in Wales

Finally, a few local authorities have asked me whether Best Interest Assessors (BIAs), trained and registered in England, are able to perform best interest assessments for an English local authority that has placed an individual for whom they have responsibility into accommodation in Wales. The Department believes there is no block to this happening.

Concluding thoughts

I hope this information is helpful to you. The implications of the Supreme Court judgment continue to emerge and there remain many challenges ahead. However, I hope you will look back on your achievements to-date with considerable pride.

In terms of our long-term plan, the Law Commission's work to fundamentally review DoLS and propose new legislation that covers care homes, hospitals and community settings continues apace and I again would encourage you to engage with this work. The Department believes that it is only through this consultative approach, considering all issues in the round, that we will achieve future legislation that better balances the need to protect the rights of individuals with the need to avoid unnecessary bureaucracy.

Please do keep in touch over the coming year. Thank you again for all you are doing to move this important work forwards.

Yours sincerely

A handwritten signature in black ink, appearing to read 'N Fry', with a large, sweeping flourish underneath.

Niall Fry
Policy Lead
Mental Capacity Act & Deprivation of Liberty Safeguards
Department of Health

Annex
Regional MCA-DoLS Leads

Region	Name of Lead	Email
East of England	Joseph Yow	joseph.yow@cambridgeshire.gov.uk
East Midlands	Heather Blow	Heather.blow@lincolnshire.gov.uk
London	Liana Kotz	Liana.Kotze@enfield.gov.uk
North East	Rachel Abbott	Rachel.Abbott@southtyneside.gov.uk
North West	Penny Davidson	pdavidson@warrington.gov.uk
South East	Sarah Pady	spady@buckscc.gov.uk
South West	Dennis Little	dennis_little@bathnes.gov.uk
West Midlands	Lorraine Currie	Lorraine.currie@shropshire.gov.uk
Yorkshire and the Humber	Amanda Coyne	Amanda.Coyne@rotherham.gov.uk

ADASS Advice Note November 2014

Guidance for Local Authorities in the light of the Supreme Court decisions on deprivation of liberty safeguards

Background

On 19 March 2014, the Supreme Court handed down its judgment in the case of “P v Cheshire West and Chester Council and another” and “P and Q v Surrey County Council”. The full judgment can be found on the Supreme Court’s website at the following link:

http://supremecourt.uk/decided-cases/docs/UKSC_2012_0068_Judgment.pdf

This is the third advice note issued by ADASS in response to the judgement.

ADASS have led a task force to support local Councils following the judgement and the work of the task force is now drawing to a close. ADASS continues to press for increased funding and early amendments to legislation.

Extent of the increase in applications

The DH requested voluntary data collection in order to monitor demand. This data can be found at <http://www.hscic.gov.uk/catalogue/PUB15856> and in summary shows

	Quarter One 2014	Quarter Two 2014	2013-14 full year
Number of councils responding	141	132	For the same 132 Councils
Number of applications	23,900	31,300	12,500
Number Granted	12,000	9,400	7,100
Nor granted	3,000	2,400	5,000
Not yet decided	8,900	19,400	400

These figures help to illustrate the developing picture for Councils attempting to manage the huge deluge in referrals. The total number of requests so far in 2014/15 is 55,200 which can reasonably be expected to produce a year end figure of approximately 110,000 compared to an annual figure last year of 12,500. This is approaching a tenfold increase and may exceed that. Most striking is the fact that 19,400 applications have not been processed. This means 19,400 people are potentially unlawfully deprived of liberty and not receiving the protection of the safeguards in a timely manner.

ADASS remind its members that compliance with the legislation is not optional. However in recognition of the exceptional challenge facing Councils the ADASS task force has agreed that some form of prioritisation is useful in deciding those situations which have a more urgent need for speedy assessment. A tool has been developed to assist with this which is attached.

Prioritisation of applications is a temporary measure to attempt to manage demand but ADASS advise members that care homes and hospitals should not be prevented from making referrals. Care homes and hospitals are becoming increasingly concerned about their own position in relation to risk and Councils may want to consider offering them some practical tips when assessments are delayed. Remembering that underpinning the safeguards are assessments of capacity and best interests decision making.

Unintended consequence

Another area of concern to ADASS on behalf of its members is the seemingly unintended consequence of DoLS applications in Intensive care and end of life situations. With the associated need for referrals to the coroner following any death whilst subject to a DoLS authorisation. Further advice may soon be available from the Chief Coroner but in the meantime all deaths must continue to be notified to the relevant coroner.

The Intensive care society have issued guidance to assist clinicians with these decisions.

<http://journal.ics.ac.uk/pdf/1504320.pdf>

Although in one sense this guidance does not assist Councils as it highlights that intensive care patients do appear to meet the acid test, there are some useful factors which should be drawn out of this guidance, in particular the following examples of exclusions where patients are not considered to be deprived of their liberty:

- those who have the capacity to decide to be admitted to intensive care
- Those who can/do consent to the restrictions applied to them
- Those who gave consent for intensive care admission prior to losing capacity – for instance prior to surgery (though they must have had an understanding that they may be under continuous supervision and control and not free to leave at some time within their stay).

It must also be borne in mind that not every patient in an intensive care setting will have a mental disorder and the DoLS only apply where there is a mental disorder as well as a lack of mental capacity.

The use of DoLS at the end of life involves consideration of issues similar to the above. Many people in hospices will have consented with capacity to their admission. Many will be able to consent to the restrictions applied to them. Many people approach the end of their life and do not have a mental disorder therefore the DoLS do not apply to them. Fundamentally in the current climate the ADASS priority tool would not routinely give high priority to people in intensive care or at the end of life as there would not appear to be any benefit to them of the use of such safeguards. Individual cases may vary of course.

The Task Force

The task force has continued to focus its work in three areas

1. **Workforce:** A list of BIA courses available around the Country is attached. It is worth noting that a number of Universities are now able to offer Fast track courses or bespoke courses. A list of Independent BIA's is still being finalised and will be available in December.
2. **Process issues:** The review of DoLS forms is now complete up to final draft stage. Forms will be circulated to all DoLS leads week commencing 17th November and final versions are anticipated the first week in December.
ADASS reviewed its protocol for reciprocal agreements in 2013 this is to be reviewed again the light of the Supreme Court judgement, in December. In the meantime whilst acknowledging the difficulties and challenges being faced in every Council in the Country ADASS would urge co-operation and reciprocation of arrangements where possible. ADASS continues to make representations for changes in legislation to ease the burden on Councils, particularly in terms of unintended consequences such as Intensive Care and end of life situations.

3. **Finance:** The figures collected by ADASS from its members in June have proven to be very accurate in terms of numbers of applications. ADASS consider that a number of the initial assumptions in the impact assessment have proved to be unsound and better evidence is now available on which to fully assess the financial burden.

ADASS along with the LGA have made a formal approach to government for the burden to be funded. This is an unsustainable burden on Councils who are already experiencing reductions in their budgets. A joint letter was issued on [31 July](#) requesting an urgent response and follow up sent on [17 October](#) after the data release from the HSCIC. ADASS is awaiting a face to face meeting with the Minister for Care Services at the time of writing.

Legislative matters

ADASS will continue to contribute to the Law Society review of DoLS both the Safeguards and the extension to community settings. This review is expected to conclude in 2017 with a consultation document being issued in early 2015.

It remains the view of ADASS that early changes to legislation would both help to ease the burden on Councils and ensure proper application of the safeguards where they were intended to be applied. ADASS would like to see early legislative changes such as;

- Changes to ease timescales for authorisation requests,
- Changes which clarify that DoLS are generally not applicable in intensive care and end of life settings
- Changes which will ensure everyone has the same process and protection whether they are in a community setting or a care home or hospital.

An added benefit of regional DoLS leads meeting together in the Task Force has been the ability to support each other but also to identify anomalies within the scheme and areas of law requiring interpretation and clarity. ADASS is continuing to work with LGA to identify possibilities for sharing legal advice. This will both feed into the work of the Law Commission and help individual Councils act within the law. The Task Force is to make a decision on continuing meetings for Regional Leads and would see this as an ideal means by which issues of concern can be raised, regional and national trends can be identified and legal advice can be shared to ensure consistency of approach. A list of Regional Leads is attached to this guidance note.

Community DoL's (Deprivation of liberty in "domestic" settings")

The Supreme Court also held that a deprivation of liberty can occur in domestic settings where the State is responsible for imposing such arrangements. This includes placements in supported living in the community as well as domiciliary arrangements which may amount to a deprivation of liberty. Such placements must be authorised by the Court of Protection.

The decision from the Court of Protection in *Re X* was issued in August and ADASS advised its members of the actions which would be needed in response to this.

On 17 November 2014, the Court of Protection will launch a new streamlined process for managing court-authorized deprivations of liberty. The new process implements guidelines set out by the President of the Court of Protection in two recent judgments: Re X and others (Deprivation of Liberty) [2014] EWCOP 25, and, Re X and others (Deprivation of Liberty) (Number 2) EWCOP 37.

The new Re X procedure is set out in a practice direction issued by the President, and is accompanied by new application forms, designed exclusively for applying for court-authorised deprivations of liberty. You can download a saveable pdf of the form here: [COPDL10 form](#) You will find the practice direction and a suggested draft Re X order on the [Judiciary website](#) or you can access it from the Court of Protection pages on Direct Gov: www.gov.uk/court-of-protection by clicking on the 'deprivation of liberty' link.

The Re X procedure is designed to enable the court to decide applications for a court-authorised deprivation of liberty on the papers only, without holding a hearing, provided certain safeguards are met: Those safeguards include ensuring that:

- The person who is the subject of the application and all relevant people in their life are consulted about the application and have an opportunity to express their wishes and views to the court.*
- The person who is the subject of the application has not expressed a wish to take part in the court proceedings*
- The person who is the subject of the application and all relevant people in their life do not object to the application.*
- There are no other significant factors that ought to be brought to the attention of the court that would make the application unsuitable for the streamlined procedure.*

The process has been designed after informal consultation with the judiciary and court users. The Court of Protection intends to review the process once it has been up and running for a while, and would be grateful for any feedback on how it works in practice. You can email your comments to the DoL Team. COPDOLS/S16@hmcts.gsi.gov.uk

The Court of Protection has set up a dedicated team to deal with applications made under the Re X procedure. The contact details are:

*Court of Protection
P.O. Box 70185
London
WC1A 9JA
Tel 0207 421 8665*

To help prepare for this streamlined process, Councils are advised to

- Scope the likely impact
- Identify those people in a variety of community settings who may be deprived of liberty
- Ensure all those identified have assessments of capacity and best interests in relation to their accommodation for care
- Staff will need to carry out necessary consultation with those named or interested in the persons welfare
- Staff will need to determine if the person meets the acid test requirements
- All those identified will need confirmation of a mental disorder.

Whilst the forms will guide practitioners through the process there is no reason not to be collecting evidence ahead of applications.

Implications for councils

The implications for councils continue to expand as a result of this judgement. ADASS reiterate its position that this judgement stands as law and cannot be ignored.

ADASS is very grateful to its members for complying with the voluntary data collection which is providing the much needed evidence of the extent of the financial burden.

ADASS are concerned about the personal cost arising from the judgment both to service users who do not have the protection of the safeguards when they are entitled to but also to staff who are battling the sense of futility when attempting to meet impossible time scales.

The number of applications for DoLS Authorisations both Urgent and Standard, are placing enormous pressure on council DoLS Teams and on the capacity of Best Interests Assessors. This is a national challenge and councils have responded in a variety of positive ways to mitigate against the impact on Council resources.

Recommendations

ADASS reminds councils to -

- 1. Remember it is unacceptable to refuse to accept applications for DoLS from Managing Authorities**
- 2. Continue to risk assess and prioritise using the ADASS tool where appropriate to determine those at highest risk have the earliest protection of the safeguards**
- 3. Continue to support the supervisory body role by releasing social workers who are trained as BIA's to carry out assessments.**
- 4. Continue to support and advise Managing Authorities particularly in relation to delays in processing applications.**
- 5. Keep partners including; elected members, staff, Best Interests Assessors, care home staff, hospital staff, supported living and other care environments briefed with developments. These briefings should disseminate information in a measured and accurate way.**
- 6. Keep insurers and Local Authority solicitors fully briefed on potential risks**
- 7. Ensure close working relationships between care management teams and DoLS teams/BIA's in order to facilitate applications to the Court of Protection for community DoL's**

Longer Term ADASS would expect councils to

- 1. Train and recruit sufficient additional BIAs to meet the new level of demand**
- 2. Update training materials in relation to MCA and DoLS to reflect the acid test**
- 3. Update all relevant policies and procedures in line with the acid test**

Wider MCA issues

ADASS also reminds its members about the request for MCA materials to be submitted to the Social Care Institute for Excellence (SCIE) in order that they can conduct a rapid but comprehensive review of MCA guidance and associated materials for the health and care sector. The aim will be to identify those materials that best provide different MCA audiences (e.g. social workers, nurses, ambulance services) with the information and tools that they require. These materials will then be jointly endorsed by national system partners and their existence advertised. Materials can still be submitted at

<http://www.scie.org.uk/opportunities/callsforevidence/mca2005.asp>

Useful resources

Details of Supreme Court DoLS Judgment

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/300106/DH_Note_re_Supreme_Court_DoLS_Judgment.pdf

Further guidance for providers from CQC

http://www.cqc.org.uk/sites/default/files/media/documents/20140404_dols_briefing_for_health_and_social_care_providers.pdf

A letter from the Department of Health to MCA-DoLS Leads in local authorities and the NHS dated 8th September 2014: www.adass.org.uk/DHletter/MCA-DoLS/Sept14/

Joint ADASS and LGA letters to government; http://www.local.gov.uk/health-wellbeing-and-adult-social-care/-/journal_content/56/10180/6415062/ARTICLE

ADASS TASK FORCE

A Screening tool to prioritise the allocation of requests to authorise a deprivation of liberty

Due to the vast increase in demand for assessments under the Deprivation of liberty safeguards the ADASS task force members have shared practice in relation to prioritisation and produced this screening tool. The aim of the tool is to assist Councils to respond in a timely manner to those requests which have the highest priority. The tool sets out the criteria most commonly applied which indicates that an urgent response may be needed so as to safeguard the individuals concerned. The use of this tool must be balanced against the legal criteria for the Deprivation of Liberty Safeguards which remains unchanged. **The criteria should be used as an indicative guide only as it will generally be based on information provided by the Managing Authority in the application and each case must be judged on its own facts.**

HIGHER	MEDIUM	LOWER
• Psychiatric or Acute Hospital	• Asking to leave but not	• Minimal evidence of

<p>and not free to leave</p> <ul style="list-style-type: none"> • Continuous 1:1 care during the day and / or night • Sedation/medication used frequently to control behaviour • Physical restraint used regularly – equipment or persons • Restrictions on family/friend contact (or other Article 8 issue) • Objections from relevant person (verbal or physical) • Objections from family /friends • Attempts to leave • Confinement to a particular part of the establishment for considerable period of time • New or unstable placement • Possible challenge to Court of Protection, or Complaint • Already subject to DoL about to expire 	<p>consistently</p> <ul style="list-style-type: none"> • Not making any active attempts to leave • Appears to be unsettled some of the time • Restraint or medication used infrequently. • Appears to meet some but not all aspects of the acid test 	<p>control and supervision</p> <ul style="list-style-type: none"> • No specific restraints or restrictions being used. E.g. in a care home not objecting, no additional restrictions in place. • Have been living in the care home for some time (at least a year) • Settled placement in care home/hospital placement, no evidence of objection etc. but may meet the requirements of the acid test. • End of life situations, intensive care situations which may meet the acid test but there will be no benefit to the person from the Safeguards
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CASE NO:		DATE:		PRIORITISED BY :
SUMMARY OF CRITERIA				
ALLOCATED PRIORITY:				



**HM Courts
& Tribunals
Service**

Court of Protection P.O. Box No. 70185 First Avenue House 42 - 49
High Holborn

WC1A 9JA

DX 160013 Kingsway

T 020 74218763

E james.batey@hmcts.gsi.gov.uk

06 November 2014

Our ref:

Your ref:

Dear Court
User

Re Implementation of the Re X procedure

I am writing to update you on the arrangements we are putting in place to implement the streamlined process for the Court of Protection (CoP) to manage applications for a court-authorized deprivation of liberty in the light of the Supreme Court decision in P v Cheshire West and Chester Council and P and Q v Surrey County Council [2014] UKSC 19:

On 7 August 2014 the President of the CoP handed down his first judgment in Re X and others (Deprivation of Liberty) [2014] EWCOP 25. I know that most of you are aware of the content of the judgment, but in summary it:

- Set out a broad framework for a streamlined process for handling the majority of cases on paper without holding a hearing;
- Identified trigger factors that would give rise to an oral hearing, including:
 - Where P does not consent to the DoL
 - Where P wishes to take part in the proceedings
 - Where anyone with an interest in P's welfare did not support the DoL
 - Where a previous decision made by P (eg advance directive) or on behalf of P (eg by attorney) conflicts with the proposed DoL
- Identified some issues that would need to be considered by the CoP Rules Group including: the wider question of how P should be involved in proceedings and potential changes to the rules on permission.

The MoJ and HMCTS intend to implement the new process, as set out in the judgment in 2 phases:

- Phase one: a new practice direction and forms to deal with judicial authorisations for a DoL. This will be an interim process and users will be invited to provide feedback on how it works in practice.
- Page 1
- Phase two: revision of the forms, practice direction and process to take into account any further guidance set out in the President's judgment, feedback from users, and any changes that come out of the CoP rules committee.

This letter explains what we are doing to implement phase one.

We have developed a new practice direction which will replace practice direction 10AA which currently deals only with applications relating to urgent and standard authorisations in hospital and care home settings. We have also developed new forms and guidance for applications for a court-authorized deprivation of liberty. As part of this process, we carried out an informal consultation with an ad-hoc group of users in the summer. Given

the need to roll the process out as soon as possible, we do not plan to carry out any further consultation but will instead, pilot the process and invite feedback on how it works in practice. We hope to publish the forms and practice direction in the next couple of weeks along with standard draft orders.

To ensure there is sufficient judicial resource to deal with the work, HMCTS have run an expressions of interest to nominate judges working in the Social Entitlement Chamber to deal with applications under the streamlined procedure. The first group of nominees will be trained in mid-November.

We have also set up a dedicated team within the CoP which will deal exclusively with deprivation of liberty work. The new staff are already trained to do the existing CoP work, and have been briefed on the proposed new Re X processes. The intention is to ring fence the Re X work so it does not impact on the other work of the CoP.

We will be in touch shortly when the forms, practice direction and draft orders have been signed off by the President of the CoP, and in relation to the practice direction only, when it has been agreed by the Secretary of State. We will explain how to access the new forms, etc. and provide contact details for the deprivation of liberty team.

Finally, I must thank everyone who has been in touch since March for your patience and understanding while we have been developing these new processes; and a special thank you to all who have contributed to developing the new forms, etc, both as part of the ad-hoc user group and by email.

Yours faithfully,

James Batey Court of Protection

DETAILS OF BIA TRAINING

Region/Area	University name	Length of BIA course	Cost of course	Frequency of course
West Midlands/Wolverhampton	University of Birmingham	<p>Entry requirements Must have 2 years post qualified experience.</p> <p>Preparation: Application including a statement of understanding of the 5 principles underpinning the MCA and how they apply this to their practice. For health staff, an extra statement on their understanding of the social model of disability. Shadowing of a BIA assessment</p> <p>Taught days:</p> <ul style="list-style-type: none"> • Day 1 – DOLS, MHAAct, MCA, other relevant legislation such as National Assistance Act • 1 day – MCA and assessment of capacity • 1 day – Deprivation of Liberty, eligibility criteria • 1 day – BIA, risk and completing BIA paperwork • 1 day or 2x 0.5 days agency based which includes presentation on shadowing a BIA assessment – ran by DOLS leads/training officers/other BIAs • 1 final day – guest speakers e.g. Judge Baker. 	£595 for Local Authority sponsored students	1 per academic year

		<p>Assessment: Presentation on piece of work done with a BIA showing active involvement in a BIA assessment Assessment+ based on an individual who lacks capacity, write up own version of forms Assignment based on the process of assessment, feedback and reflection (2,500 words at H level, 4,000 words at M level).</p> <p>Support and guidance is offered to the agency based requirements. Agencies are also required to mark work (from other local candidates on the programme) and again support and training is provided for this).</p> <p>Closing date for applications 29th August</p>		
Wolverhampton		<p>20th October to 15th December – 9 taught days</p> <p>One taught module and one shadowing experience with portfolio submitted 5th May for June Board.</p>	<p>£567 for 20 credit module</p> <p>£283.50 for 10 credit module</p>	40 candidates max per cohort 1 per year
Birmingham	Birmingham City University (BCU)	<p>Standalone module. 20m credits at M level. Shadowing before start of course. 10 day programme, results to board the following month, 2-3 months from start to successful completion.</p> <p>Viva Voce panel examination to panel plus 1500 word assignment.</p>	£550 (normally £800)	

Chester/Warrington	7 days direct teaching.	For 2014-2015 – Includes practice element – 2 direct observations of involvement in BIA assessment. Completion of 3000 word essay and Form 10.	£450	3 cohorts September October January
North West - Manchester	The University of Manchester	10/09/2014 to 19/11/14 – One Module - Teaching always takes place on a Wednesday, dates are as follows: 10/09/14, 24/09/14, 01/10/14, 08/10/14, 15/10/14, 05/11/14 and 19/11/14. Each day runs from 9:30am to 3:30pm		<i>We are also planning on running more intense courses to satisfy demand – details TBC</i>
South West	Bournemouth	3 months. 3 taught days plus self-managed learning, based on support materials provided by Bournemouth University. Assessed work comprises a portfolio of tasks to include a professional development review, a practice analysis and third-party testimony	£850 per place	Usually 2 to 3 times a year but extra courses can be put on due to demand
South West	University of The West of England	6 MONTHS (e.g. Jan – June) INDUCTION DAY plus 5 TAUGHT DAYS (1 per 4 weeks)	£1,130 30 CREDITS at L3 or M	Annual up until now but there is two courses for 2014/15 academic year (i.e. October 2014 & January 2015)
East London	University of East London	6 Days – 30 Credits	£850	At least twice a year
Hertfordshire	University of Hertfordshire	9 Days – 30 Credits	£1 650	3 x more till end of year (April 2015)

Bournemouth/ Eastern	University of Bournemouth	3 days direct delivery and submission of a Portfolio Days - 40 Credits	£850	10 overall 2014 - 2015 5 of which were bespoke
East Midlands/ Leicester	East and West Midlands BIA Training Partnership, University of Birmingham Davina Weston, Programme Administrator Ric Bowl, Director of Community Mental Health Programmes	Start date: 17/01/14 until 20/06/2014 (for recent cohort of BIA students). This may alter slightly as an additional cohort are being factored in starting at some point in September 2014 and running to end of December 2014. Dates to be finalised. Six taught days – one module but two elements of that, requiring a student to successfully pass an oral presentation and also submission of a 3000/4000 work assignment dependent on whether studying at undergrad or post-grad level.	The course will cost £595 for Local Authority sponsored students.	One programme per year – with 2 and a half central shared training days; 4 training days running in both East and West Midlands and two half days based within each individual authority. This means approximately 48 candidates in total. The University of Birmingham will be running a BIA course with the following (provisional) dates, we still have one date to add so there will be six teaching days overall. We have yet to set the assignment dates, however I would expect students to know there results by the end of March 2015:- Monday 06/10/2014 Monday 13/10/2014 Monday 03/11/2014 Monday 17/11/2014 Tuesday 25/11/2014
East Midlands/ Lincolnshire	University of Lincoln	Five and a half days of teaching/assessment	£570 in 2014	Usually twice per year but subject to demand additional courses can be provided

Norman Lamb MP
Minister of State for Care and Support
Department of Health
Richmond House
79 Whitehall
London
SW1A 2NS

17 October 2014

Dear Minister

Thank you for your letter of 2 September. We are glad you recognise that the clarification in the law following the Supreme Court judgment has resulted in significantly increased activity on Deprivation of Liberty Safeguards (DoLS) across the system. We very much appreciate the offer to meet you to discuss this. Our offices are in touch with yours and we hope to agree a date with you very soon, given the urgency.

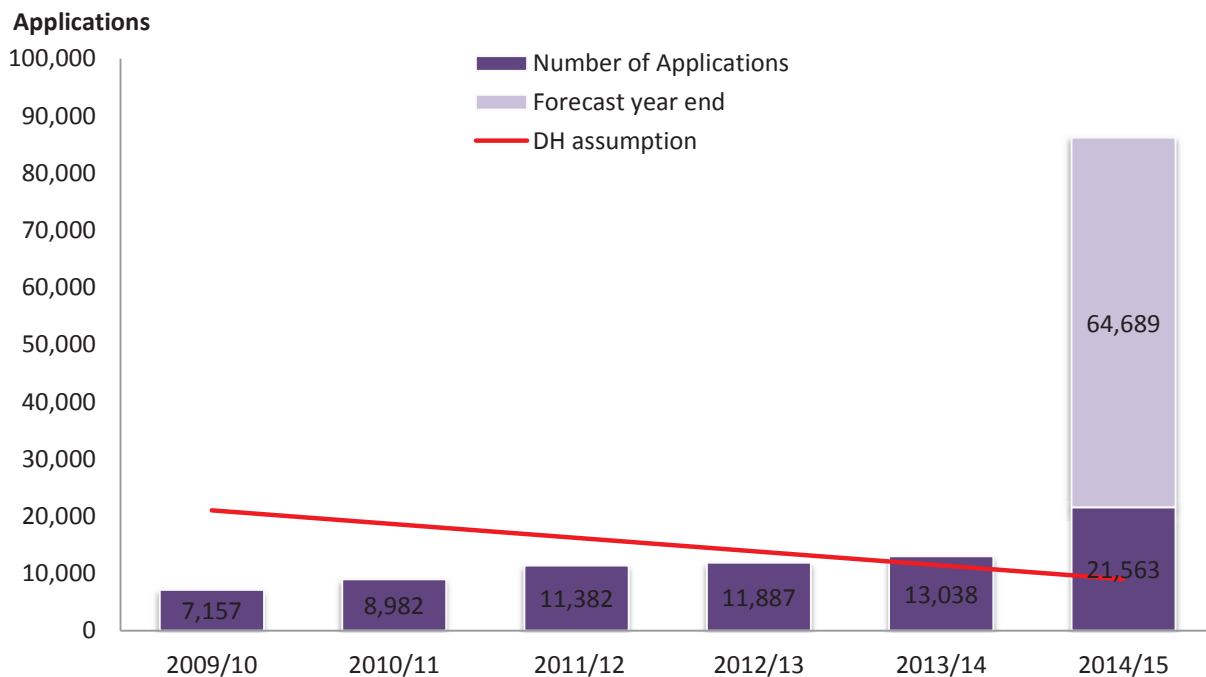
We are looking to the Government to provide a swift solution to the significant impact being felt on very vulnerable individuals and across the health and social care system.

We absolutely support the principles behind and collective ambition to implement the Mental Capacity Act 2005 (MCA) and DoLS, as our previous letter explained. We wish to ensure that people have their needs met in a timely way via a proportionate and outcome-based process that safeguards individual rights.

As we also said before, there is a real concern that vulnerable people are already being unlawfully deprived of their liberty, are not having their best interests assured, and are being denied the opportunity to have independent scrutiny of their care arrangements that the process can provide.

The recent data allows for fuller assessment of the scale of the impact of the Judgement. In Quarter One of 2014/15 alone applications are running at more than double the annual level predicted in the original DH impact assessment and by year end levels, we forecast, it will be nearly ten times this.

Number of Deprivation of Liberty Safeguards applications by year, England 2009/10 - 2014/15¹



As well as raising concerns on the significant impact on vulnerable individuals, many councils have already expressed very serious concerns to us about this unsustainable pressure. Its impact is also being felt across the system. There is also significantly increased activity within the NHS, which is falling to local authorities to authorise.

We maintain that the cost implications, as outlined in our previous letter, are much larger than those anticipated previously. We believe there was already a shortfall in funding which has been massively exacerbated by the impact of the Supreme Court Judgment upon already over-stretched local authority capacity. This situation cannot be sustained. We have made clear in wider discussions on the cost implications of the Care Act, local authorities need to ensure they have sufficient resources to minimise the impact of any resource reduction on other services and the wider community.

In addition, this is not a one-off adjustment: the impact will be sustained as in-year reviews commence and given changes to the demographic profile in this country, will undoubtedly increase. We also need time to build up capacity, not least to ensure we have sufficient levels of trained and qualified staff to ensure we can protect and uphold the rights of vulnerable people going forward.

¹ Source: [2009/10 - 2013/14 HSCIC Annual DoLS report](#), [Quarter 1 Return](#), [2014-15 HSCIC DoLS report](#).

Forecast year end: the forecast is based on data from 130 (86% of councils) on the assumption that Q1 2014/15 is representative of the number of applications that will be received in any given quarter of 2014/15. For the purpose of this specific letter the assumption is based on reviewing the latest quarterly data published in 2010/11 which shows a uniform volume of applications across each quarter. **However, the number of applications could in practice vary by quarter and will need to reassessed when Q2 data is released.**

We welcome your recognition that the sector has done a great deal to minimise the impact of the judgement and also on promoting its wider principles for the benefit of vulnerable people in our communities. We fully appreciate the support of your staff in working with us to agree some immediate actions.

Even with extensive sector led activity, councils cannot hope to fully mitigate the impact of the judgement without additional funding. We are therefore seeking your agreement that additional funding must be made available as a matter of urgency to cover recurring costs on an ongoing basis.

We are aware that the initial level of increase in individual local authority areas will vary according to the degree to which local practice needs to change. This will, of course, explain the differential impact in certain areas. Local areas are also aware that it will take time to move towards full compliance with the law. We are working across the sector to embed the principles behind the Judgement and the MCA 2005 and to reduce some of the inconsistencies in understanding and application. However, the funding made available to date simply does not reflect the expanded duties resulting from the Judgement. In every area costs are still higher than current funding levels.

This situation is additionally placing councils at significant risk of legal challenge. We strongly support the decision to address the legal framework to ensure the system is fit for purpose, is proportionate and can protect the best interests of individuals. ADASS and the LGA intend to work closely with the Law Commission prior to its first consultation report.

Whilst we note the wish for legislative change not to be rushed, this needs to be balanced with a recognition of the urgency of ensuring that the people's needs are met in the best way possible, as well as reducing lengthy judicial processes and minimising the cost to the public purse.

There also must be some very specific circumstances in which the sector and government could work together on identifying a more proportionate response in advance of the Law Commission reporting in three years. There are already some practice anomalies with the current system as a result of the supreme Court judgement – assessing people in hospitals at the end of life or in a coma or an increase in coroners requesting post mortems - that is causing undue stress on families and simply do not promote the person's best interests in line with the MCA 2005.

However, whilst we wait for the longer term and permanent solutions, there is a dire need now for funding to enable Councils to meet their statutory obligations to vulnerable people in our communities and to ensure adherence with the principles clarified by the Supreme Court.

To enable a focused conversation on these issues at our meeting, further information on the impact on individuals and their families and the difference between the original impact assessment, the recent review and the current situation are attached.

We very much hope that the meeting with you can focus on how best to find a joint resolution to the current, very pressing, issue. It is particularly important that this is resolved quickly, to help reassure councils across the country that the commitment to fully fund the new burdens in the Care Act will be honoured, if over time costs turn out to be higher than the Department is currently predicting

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Izzi Seccombe', with a horizontal line underneath.

Cllr Izzi Seccombe
Chair, LGA Community Well Being Board

David Pearson

David Pearson
President of the Association of Directors of Adult Social Services

Appendix

1. Summary of increased costs

The expanded duties resulting from the Judgement go well beyond anything assumed in the original impact assessment and beyond the revised funding allocation in respect of hospital cases only. The Supreme Court Judgement has led to increased costs for Councils as a result of:

1.1 Immediate cost impacts

- Increased costs from the totally new burden placed by necessary applications to the Court of Protection to authorise those in settings outside of care homes and hospitals such as supported living, community DoLS, domestic settings.
- A consequential increase in workforce requirements and administrative time for applications for Community DoLS. Submissions are expected to take an additional 10/12 hours of social work time plus local authority solicitor time.
- The need to identify an increased number of Best Interest Assessors (BIAs), Mental Health Assessors and Authorisers to carry out assessments in relation to the statutory scheme.
- As applications for authorisations under the statutory scheme have increased, so the use of Independent Mental Capacity Advocate (IMCAs) and paid person representative has increased, with associated cost implications. This carries with it both a capacity and a commissioning pressure. Perhaps more significant is the increase in s12 approved DoLS assessors at a cost of approximately £175 per assessment to Councils.
- An increase in training costs to ensure a workforce skilled to meet demand.
- The increased cost of court fees both for challenges to the statutory scheme and for applications for Community DoLS.
- Cases authorised will all fall to be reviewed or renewed at the end of the time period; again both incurring additional and recurring costs
- A need to revisit previous decision making in numerous cases assessed as not deprived of liberty based on the earlier interpretation and re-assess
- There appears to be a very high conversion rate so far on referrals to authorisation. As the DH noted in the original impact assessment, each authorisation granted carries with it higher costs, appointment of a representative and more extensive consultation for example.

1.2 Longer term impacts

- Demand is also likely to grow over time as awareness and understanding of the new interpretation of the law increases and as greater clarity is brought to age related applications.

- Local authorities are also likely to be involved in as yet uncosted legal action. Currently, on average procedural breaches for DoLS failures are being granted damages at the rate of £1,000 per month, such that court declarations are being sought and granted for between £10,000-£15,000 per year per case. More severe cases are achieving higher damages awards of around £35k (i.e in those cases where P should never have been removed). Local authorities are also seeing a rise in the number of frail, elderly people in their 80's and 90's, who will probably not survive their claims.
- In the original impact assessment the number of people using the Court of Protection to challenge DoLS was anticipated as 1:40 applications and at a cost of £9,000. Accepting the ratio as correct, then as figures for authorisations rise, so do the proportion likely to be challenged to the Court of Protection, creating a new burden.

2. Differences between original impact assessment, revised DoLS funding and the current situation

2.1 Definitions

- At the time of the original impact assessment, the Government rejected the view of some respondents that “every person who lacks capacity to consent to the arrangements for their care or treatment, and who is in a care home from which they are not allowed complete freedom of egress, are inevitably deprived of their liberty within the meaning of Article 5 of the ECHR”. **ADASS and the LGA believe that this must be revisited in the light of the Supreme Court acid test.**

2.2 Numbers

- The DH considered that based on the understanding of the meaning of deprivation of liberty at the time the number of people who lack capacity and may need to be deprived of liberty “should be relatively small”. As noted above, **the scope is now significantly expanded.**
- The original impact assessment was entirely based on estimates and, as the DH later accepted, “at the time the impact assessment was carried out, there was no factual evidence on numbers or costs of unlawful detentions on which to base estimates of the cost”. **There is now better information available on which to base revised estimates.**
- DH estimates of numbers were based on 500,000 people in England and Wales who have a mental disorder and lack capacity. DH analysis suggested 1:10 would need additional restrictions which may amount to a deprivation of liberty i.e. 50,000. As noted above, **the acid test introduced by the Supreme Court interpretation has widened the scope and nature of application to potentially many more people.**
- The division of funding between care homes and hospitals was considered to be 80/20. The initial funding for care homes was provided within an overall MCA and DoLS allocation. The MCA was 60% of the whole and the DoLS 40%. The DoLS element was to further reduce by 5% each year until 2015 when it was envisaged that steady state would be achieved. This now incorrect original assumption still underpins the larger element of DoLS funding.

- It was envisaged more assessments being undertaken in the first year, with progressively fewer made as all parties become familiar with safeguards, and that the number of authorisations would remain constant. It also was assumed that once the safeguards were understood, 10% of the relevant population will be subject to assessment of whom no more than 25% at any one time will be justifiably deprived of liberty.
- The pattern of rising applications as outlined above is contrary to predictions in the Impact Assessment that applications would fall at a constant rate between 2009/10 and 2015/16.”² The ADASS Survey and later data illustrates that councils are anticipating that levels of increased activity in 2014/15 will be sustained in 2015/16. Even before the increase in numbers as a result of the Judgement, national data shows that there has been a year-on-year increase in the number of applications completed for deprivation of liberty under (DoLS) since their introduction in 2009/10. the numbers show a steady increase each year from 2009/10-2012/13 with a marked jump in 2013/14.
- This assumption also never took account of the requirement for review and renewal, and the associated cost implications. The original DH impact assessment assumed that 25 per cent of authorisations would be granted and therefore need to be reviewed at least annually. In practice the statistics show the level at twice this and with the recent judgement **the Q1 data shows eight out of ten applications will need to be reviewed at least annually.**
- We are aware that DH revised the figures, prior to April 2013 and agreed £1200 which was a unit cost, taking into account not only the assessments but the overall cost of the DoLS service. However, **it is only the 20% for funding hospital DoLS which was revised in 2013.** As above, the Supreme Court interpretation has widened the scope and nature of application to many more people.

2.3 Authorisations

- The impact assessment assumed 5,000 authorisations in first year reducing to 1,700 each year after 2015/16 and from this figure arrived at a cost of 21,000 assessments in first year (25% granted). The cost of this £13.6 m and 7,000 assessments in 2015/16 producing 1,700 authorisations with costs now at £4.3 million.
- It was predicted that there would be a steady state by 2015/16 as after that “costs are assumed to change only in line with demographic change in the relevant population.” In fact, these have shown a year on year increase from 2009/10-2013/14 rather than the decline and stabilisation predicted.
- The proportion of authorisations granted largely remain unchanged over the last three years but is still double the assumptions made. Three-fifths (59% or 7,629) of all applications for deprivation of liberty under DoLS completed in 2013/14 had an authorisation granted. This was higher than each of the preceding years: 2012/13 (55%), 2011/12 (56%), 2010/11 (55%) and significantly higher than 2009/10 (46%). Where authorisations were not granted in 2013/14, this was usually because the supervisory body considered that the ‘best interests’ assessment had not been met (96% of applications where authorisation was not granted).

² HSCIC Annual DoLS report, [2012/13](#)

	DH Assumptions		Health and Social Care Information Centre Data					
	2009/10	2015/16	2009/10	2010/11	2011/12	2012/13	2013/14	2014/15
Number of Applications	21,000	6,600	7,157	8,982	11,382	11,887	13,038	21,563
Forecast year end³								86,252
Authorisations granted	5,000 (25%)	1,700 (25%)	3,297 (46%)	4,951 (55%)	6,339 (56%)	6,546 (55%)	7,629 (59%)	11,089 (80%)
Authorisations not granted			3,860 (54%)	4,031 (45%)	5,043 (44%)	5,341 (45%)	5,409 (41%)	2,660 (20%)

Proportion of DoLS applications granted and not granted by year, England 2009/10-2014/15⁴



- Each authorisation granted must be renewed or reviewed at the end of the time period, resulting to a cumulative effect of costs. **This is even more so since the acid test.**

3 Impact on individuals and families

As noted above, there also must be some very specific circumstances as a result of the supreme Court judgement that is causing undue stress on families and simply do not promote the person's best interests in line with the MCA 2005.

³ Forecast year end: the forecast is based on data from 130 (86% of councils) on the assumption that Q1 2014/15 is representative of the number of applications that will be received in any given quarter of 2014/15. The assumption is based on reviewing the latest quarterly data published in 2010/11 which shows a uniform volume of applications across each quarter.

⁴ Q1 2014/15: The proportion granted/not granted is based on applications that have already be decided and are subject to future revision and there is no reason to assume that the proportions will change in future quarters. However, HSCIC report that in Q1 2014/15 51 per cent (11,100) were granted, 12 per cent (2,700) not granted and 36 per cent (7,800) were not yet signed off by the Supervisory Body or were withdrawn.

- A further unintended consequence of the Supreme Court judgement is in relation to patients in intensive care. It is another source of great distress to families at a very difficult time to have to be subject to a process such as the deprivation of liberty safeguards. It is anticipated that there may be 20,000 people in intensive care who may need to be subjected to the safeguards process which will be a further burden on Councils to process and a further emotional impact on assessors required to work in very difficult situations.
- Additionally the increase in DoLS authorisations has resulted in an associated increase of deaths in detention which must be notified to the Coroner. In many cases Coroners are insisting on post mortems, with the resultant distress on families and the impact on Coroners work.

Agenda Item 6

Cabinet Committee on Performance Improvement

Meeting to be held on 4 February 2015

Electoral Division affected: All

Corporate Human Resources - Health Check Report (Appendix 'A' refers)

Contact for further information:

Katie Dunne, (01772) 535787, Office of the Chief Executive

katie.dunne@lancashire.gov.uk

Executive Summary

This Corporate Human Resources 'Health Check' report provides information across the authority against key metrics regarding workforce information for 2013/14 and 3rd quarter for year 2014/15.

The Corporate Human Resources key metrics regularly monitor and report against workforce data including: the numbers of starters and leavers; reasons for leaving; secondment and redeployment activity; vacancy numbers and recruitment costs.

The data highlights that in the 3rd quarter of 2014/15:

- More employees are starting the organisation than leaving.
- The number of starters has increased by 9.78% in quarter 3 of 2014/15 compared with 2013/14.
- The number of leavers has reduced by 42.11% in quarter 3 of 2014/15 compared with 2013/14.
- Turnover has fallen from 19% in the second quarter to 9% in the third quarter of 2014/15.
- The number of recruitment adverts has increased by 49.53% in quarter 3 of 2014/15 compared with 2013/14.
- Recruitment advertising spend has increased by £7.2K.
- The Employment and Support Team are currently on target to deliver 1100 new starts onto employment programmes for 2014/15.

Recommendation

The Cabinet Committee on Performance Improvement is asked to comment on, and note, the content of the report and Appendix 'A'.

Background and Advice

This report provides a summary of key human resource activity within the Council for the first, second and third quarters of 2014/15 and for the same period in 2013/14 for comparative purposes. The detailed information is set out at Appendix 'A'.

The sickness absence outturn figure for Q3 2014/15 is not available. The Q2 figure was 1.59 days per employee against a target of 1.46 days in the full year. Long term sickness absence accounted for more than 62% of total absence and the top reason for absence due to sickness was mental health.

The data shows that the number of new starters in Q3 in 2014/15 has increased by 9.78% to 258 compared with 235 in Q3 of 2013/14. It would be expected that the number of leavers would increase, given the Council Transformation but, in fact, the number of leavers in Q3 in 2014/15 has decreased by 42.11% to 187 compared with 444 in Q3 of 2013/14.

The number of leavers due to voluntary redundancy in Q3 in 2014/15 has stayed around the same figure (43) compared to Q3 in 2013/14 (41).

The data provides combined detail on both the number of recruitment adverts placed both internally and externally, and the number of positions advertised, as some adverts include multiple positions. The number of adverts has increased by 49.53% so far in Q3 of 2014/15 compared with the third quarter of 2013/14. The number of positions has increased also by 58.09%. Requests for external recruitment advertising are submitted to the Corporate HR Team for a decision and routinely reported to Management Team.

Recruitment advertising spend has increased by £7.2K in Q3 in 2014/15 compared with Q3 in 2013/14.

The Employment and Support Team has delivered 760 new starts onto employment programmes so far in 2014/15, against a target of 1,100 for the full year.

Consultations

N/A.

Implications:

This item has the following implications, as indicated:

Risk management

No significant risks have been identified in relation to the proposals contained within this report.

List of Background Papers

Paper	Date	Contact/Directorate/Tel
N/A		
Reason for inclusion in Part II, if appropriate		
N/A		

Appendix 'A'

1. Sickness Absence

[Note: Due to the large number of establishment changes and the way the Oracle HR system calculates the number of days lost the ability to make comparisons with previous years is not viable.]

LCC Absence rate per FTE 2014/15 Q2		
Total number of days lost	1.59	Target 1.46 days
Number of days lost per FTE - Short term	0.61	
Number of days lost per FTE - Long term	0.99	
Number of employees absent 6 -12 months	139	
Number of employees absent over 12 months	36	

Directorate	Days per FTE 2014/15	Target
Adult Services, Health and Wellbeing (ASHW)	2.81	2.54
Children and Young People (CYP)	2.48	1.87
Environment	1.91	1.54
Office of the Chief Executive (OCE)	1.90	2.46
County Treasurers	2.04	1.60
Lancashire County Commercial Group (LCCG)	2.64	2.57

In 2014/15 LCC (Q2) top 3 reasons for absence were:

- Mental Health – 25%
- Musculoskeletal System – 15%
- Medical/Dental/Hospital – 14%

2. Starters/Leavers

Starters

	2014/15					2012/13	2013/14
	Q1	Q2	Q3	Q4	Total		
ASHW	21	42	33		96	208	283
County Treasurer	8	7	8		23	12	20
CYP	35	58	73		166	282	302
Environment	26	36	13		75	116	38
LCCG	105	109	87		301	444	309
OCE	18	28	41		87	34	80
BTLS	10	7	3		20	283	148
TOTAL	223	287	258	0	768	1379	1180

Appendix 'A'

Leavers

	2014/15					2012/13	2013/14
	Q1	Q2	Q3	Q4	Total		
ASHW	59	85	40		184	296	430
County Treasurer	4	2	5		11	15	29
CYP	65	86	47		198	271	464
Environment	29	32	13		74	125	185
LCCG	107	142	59		308	536	598
OCE	27	47	17		91	24	104
BTLS	5	8	6		19	141	120
TOTAL	296	402	187	0	885	1408	1930

3. Reasons for Leaving

[Note: 'Dismissal' can be for performance, conduct or related to poor attendance; 'Retirement – Other' can be normal retirement or retirement aged 60 and over; 'Other' can include mutually agreed termination and TUPE transfers out of LCC]

	Deceased	Dismissal	End of FTC	Redundancy - Compulsory	Redundancy - Voluntary	Ill Health Retirement	Retirement - other	Resignation - Voluntary	Other	TOTAL
2014/15 - Q1										
ASHW	2	2	2	0	7	3	11	27	5	59
County Treasurer	0	1	0	0	0	0	0	2	1	4
CYP	0	2	3	1	8	2	4	38	7	65
Environment	0	1	0	0	4	0	7	14	3	29
LCCG	2	1	0	0	4	1	15	71	13	107
OCE	0	0	3	0	1	0	0	18	5	27
BTLS	0	1	1	0	1	0	0	2	0	5
TOTAL	4	8	9	1	25	6	37	172	34	296

Appendix 'A'

	Deceased	Dismissal	End of FTC	Redundancy - Compulsory	Redundancy - Voluntary	Ill Health Retirement	Retirement - other	Resignation - Voluntary	Other	TOTAL
2014/15 – Q2										
ASHW	1	2	3	2	23	2	10	36	6	85
County Treasurer	0	0	0	0	0	0	0	2	0	2
CYP	0	0	5	0	10	0	11	45	15	86
Environment	1	1	3	0	7	0	4	15	1	32
LCCG	2	2	0	0	3	3	18	91	23	142
OCE	0	0	16	0	8	1	0	17	5	47
BTLS	1	0	0	0	2	0	1	3	1	8
TOTAL	5	5	27	2	53	6	44	209	51	402

	Deceased	Dismissal	End of FTC	Redundancy - Compulsory	Redundancy - Voluntary	Ill Health Retirement	Retirement - other	Resignation - Voluntary	Other	TOTAL
2014/15 – Q3										
ASHW	2	0	0	0	12	1	2	21	2	40
County Treasurer	0	1	0	0	1	0	0	2	1	5
CYP	1	2	1	0	16	0	8	18	1	47
Environment	0	1	2	0	4	0	0	5	1	13
LCCG	1	2	0	0	4	0	7	42	3	59
OCE	0	0	1	0	5	0	0	9	2	17
BTLS	0	0	1	0	1	0	2	2	0	6
TOTAL	4	6	5	0	43	1	19	99	10	187

	Deceased	Dismissal	End of FTC	Redundancy - Compulsory	Redundancy - Voluntary	Ill Health Retirement	Retirement - other	Resignation - Voluntary	Other	TOTAL
2013/14										
ASHW	2	18	10	1	122	9	53	135	80	430
County Treasurer	0	2	2	0	16	0	0	8	1	29
CYP	5	13	35	0	114	6	47	170	74	464
Environment	4	9	1	0	67	2	31	65	6	185
LCCG	4	24	8	3	62	16	60	375	46	598
OCE	1	5	8	0	40	0	2	34	13	103
OCL	0	8	18	0	8	0	4	70	13	121
TOTAL	16	79	82	4	429	33	197	857	233	1930

Appendix 'A'

4. Number of employees on the Redeployment List

	2013/14	2014/15				
	Total	Q1	Q2	Q3	Q4	Total
ASHW	27	7	12	7		26
County Treasurer	4	1	1	1		3
CYP	52	5	5	20		30
Environment	32	18	7	3		28
LCCG	21	0	7	30		37
OCE	10	9	1	0		10
OCL	26	1	1	1		3
TOTAL	172	41	34	62		137

5. Average time on Redeployment List (in weeks)

Total 2013/14	Q1	Q2	Q3	Q4	Total 2014/15
9.6 weeks	6.83	8.9	4.72		6.83

6. Number of assignments from Redeployment List

	2013/14	2014/15				
	Total	Q1	Q2	Q3	Q4	Total
TOTAL	67	15	13	36		64

6a. Reasons for removal from Redeployment List

2014/15	Q1	Q2	Q3	Q4	Total
Alternative assignment found - LCC	6	13	31		50
End of Fixed term contract - left LCC	4	1	2		7
Extended in post	10	0	5		15
Resigned	3	2	0		5
VR	1	0	5		6
Total	24	16	43		83

Appendix 'A'

7. Vacancies (number of advertisements)

	2013/14	2014/15				
	Total	Q1	Q2	Q3	Q4	Total
ASHW	333	103	98	124		325
County Treasurer	4	3	2	3		8
CYP	281	69	58	53		180
Environment	61	33	18	23		74
LCCG	901	392	300	405		1097
OCE	20	21	53	12		86
OCL	187	20	10	23		53
TOTAL	1787	641	539	643		1823

[Note: This includes the number of vacancies advertised, both internally and externally but does not contain schools' based posts].

8. Vacancies (number of positions advertised)

	2013/14	2014/15				
	Total	Q1	Q2	Q3	Q4	Total
ASHW	1226	367	308	426		1101
County Treasurer	8	5	2	8		15
CYP	546	116	88	136		340
Environment	98	66	33	33		132
LCCG	1579	661	552	701		1914
OCE	67	99	90	69		258
OCL	322	27	14	23		64
Other	2	0	0	0		0
TOTAL	3848	1341	1087	1396		3824

[Note: This table shows the number of posts advertised within the adverts detailed in table 6. E.g. one job advert may advertise multiple posts].

Appendix 'A'

9. Recruitment Advertising Costs

Directorate	Costs (£)				
	2014/15 Q1	2014/15 Q2	2014/15 Q3	2014/15 Q4	Total
ASHW	£6,337	£3,628	£1,277		£11,242
County Treasurer	£0.00	£0.00	£0.00		£0.00
CYP	£2,886	£0.00	£2,763		£5,648
Environment	£1,550	£5,317	£6,553		£13,420
LCCG	£9,240	£9,795	£8,647		£27,682
OCE	£2,119	£1,582	£0.00		£3,701
BTLS	£3,313	£0.00	£0.00		£3,313
Schools	£64,682	£18,417	£26,747		£109,846
TOTAL	£90,127	£38,738	£45,987		£174,853
<i>Total for 2013/2014</i>	<i>£326,887</i>				
<i>Total for 2012/2013</i>	<i>£338,736</i>				
<i>Total for 2011/2012</i>	<i>£367,273</i>				
<i>Total for 2010/2011</i>	<i>£730,415</i>				

10. New Starts onto all Employment Programmes

Employment Programmes	March 2013	March 2014	2012/13	2013/14	2014/15
Apprenticeship Suite	4	37	87	396	93
Future Horizons Suite	5	12	140	177	186
WorkStart Suite	22	34	307	410	401
Graduates**	0	0	12	0	0
Work Experience	8	4	96	113	80
Duke of Edinburgh***	0	0	0	53	0
Total	39	87	642	1149	760

- The Graduate intake is now embedded into the Professional Apprentices and Trainee Suite and therefore with effect from 2015/16 a separate heading of Professional Apprentices and Trainees will be included in these reporting statistics.
- The provision of access for County Council employees to the Duke of Edinburgh Award Programme has now been withdrawn by the County Council and therefore no more new starts will be reported.
- Programme delivery is on track to achieve 2014/15 targets.

Appendix 'A'

**11. Workforce Planning New Placement Starts Per Quarter
(Excluding Duke of Edinburgh) 2014/15:**

Scheme	Quarter 1	Quarter 2	Quarter 3	Quarter 4
Apprenticeship Suite	11	51	31	
Future Horizons Suite	72	41	73	
WorkStart Suite	118	116	167	
Graduates	0	0	0	
Work Experience	18	53	9	
Total	219	261	280	
Grand Total	760			

**12. Workforce Planning New Placement Starts within the
County Council and other sectors 2014/15:**

Scheme	LCC		Other Public Sector		Private Sector	
	16-24	25+	16-24	25+	16-24	25+
Apprenticeship Suite	65	14	2	0	12	0
Future Horizons Suite	77	0	2	0	107	0
WorkStart Suite	236	23	20	7	111	4
Graduates	0	0	0	0	0	0
Work Experience	68	12	0	0	0	0
Total	446	49	24	7	230	4
Grand Total	760					

Appendix 'A'

13. Ex Service Personnel Mentoring in Schools – 2014/15:

Client Group	Current Mentors	Year to Date	Current Caseload	Mentoring Sessions delivered	Mentoring Sessions delivered to Date	Other Interventions delivered	Other Interventions delivered to Date
Quarter 1							
Mentors	14	17	95	1227	5325	252	1606
Young People	0	0	0				
Quarter 2							
Mentors	9	26	13	226	1493	51	303
Young People	80	175	80				
Quarter 3							
Mentors	0	26	13	931	2424	138	441
Young People	189	364	237				
Quarter 4							
Mentors							
Young People							

Programme delivery is on track to achieve 2014/15 targets

Agenda Item 7

Cabinet Committee for Performance Improvement

Meeting to be held on 4 February 2015

Electoral Division affected All

Achievement of Looked After Children in Lancashire

(Appendices 'A' and 'B' refer)

Contact for further information:

Bob Stott, (01772) 531652, Directorate for Children and Young People

bob.stott@lancashire.gov.uk

Executive Summary

The report provides information on the attainment, progress and achievements of Lancashire Children Looked After (CLA) in 2014. The findings are based on the unvalidated data released by the Department for Education (DfE) along with local authority information on CLA. The data shows that there are improvements in achievement at the end of Key Stage 2 but achievement for CLA remains well below that of other pupils in Lancashire. At the end of Key Stage 4 the information indicates that levels of attainment fell in 2013 and are very low when compared with other pupils. A recovery plan has been developed and is being implemented to help raise standards of achievement for CLA pupils in the secondary phase and particularly at the end of Key Stage 4.

Recommendation

The Cabinet Committee on Performance Improvement is asked to note and comment upon the report and the recovery plan set out at Appendix 'B'.

Background and Advice

There are currently over 1,600 children in the care of Lancashire with around 900 in primary and secondary schools up to the age of 16 years. These pupils are placed in about 300 schools across Lancashire with over 120 pupils attending schools outside the County.

Although the exact figure varies from year to year, a high proportion of CLA have special educational needs. Around two thirds of the CLA in Year 11 in 2014 had special educational needs with half of these having a statement of special educational need (SEN).

Educational performance of Children Looked After at the end of Key Stage 2

The performance of Children Looked After (CLA) in the end of Key Stage 2 assessments in 2014 is set out in Appendix 'A' at Table 1 and the main points are as follows:

- There is an improving trend in the proportion of CLA who have reached or exceeded the expected level of attainment in reading, writing and mathematics (Level 4) over the past 3 years.
- The attainment in Lancashire is in line with the national average for CLA in mathematics but it remains below the national average in reading and writing.
- The increase in the proportion of pupils reaching or exceeding the expected level in reading, writing and mathematics (Level 4) has been better than the rate of increase nationally and the gap in attainment is closing.
- The attainment of CLA remains well over 20% below the average for children who are not Looked After and is an area for improvement.

Additional information from the OfSTED Raiseonline evaluation report for Lancashire indicates that the attainment of CLA is below the average for similar pupils but that the proportion making expected progress from Key Stage 1 to Key Stage 2 is just below average in mathematics and above average in reading and writing.

Educational performance of Children Looked After at the end of Key Stage 4

The performance of CLA at the end of Key Stage 4 in 2014 is set out in Table 2 at Appendix 'A'. This shows two sets of information for 2014 as changes have been made by the DfE in the reporting arrangements for examinations and some qualifications which have previously counted towards the students' attainment have been disallowed. This needs to be recognised, therefore, when looking at trends and making a comparison with previous years. The main points are set out below:

- There is a declining trend in the attainment of CLA at the end of Key Stage 4 in Lancashire over the past 3 years as there has been nationally.
- Attainment at the end of Key Stage 4 in Lancashire has consistently been below the national average for CLA.
- Under the new arrangements for reporting examination performance the proportion of CLA gaining 5 or more good GCSEs in Lancashire has fallen but is similar to the national average.
- The attainment of CLA remains very low when compared with the average for children who are not Looked After and is therefore a key issue for improvement.

Additional information from the OfSTED Raiseonline report for Lancashire indicates that the attainment of CLA is below average for similar pupils and that the proportion making expected progress from Key Stage 2 to Key Stage 4 is just below average in English but well below average in mathematics.

Lancashire's own records also show that:

- The great majority of Year 11 pupils have made good academic, educational, social and emotional progress in relation to their baseline and circumstances, and are moving on to further education or training.
- 69% of the Y11 pupils had one or more qualifications with some having gained qualifications equivalent to a GCSE.
- Many CLA gained significant vocational qualifications. 88% of Y11 CLA attained the qualifications required to move into training or attend further education in September 2014, with many of these having SEN.

- At September 2014, only 2.8% of CLA in Y11 were not in Education, Employment or Training (NEET).

Key areas for improvement

The following areas have been identified as priorities for development and they have been incorporated into a recovery plan, set out at Appendix 'B'.

- Developing the monitoring of progress towards individual targets for children through the Education Provision Maps and attendance at Personal Education Plan (PEP) review meetings where appropriate.
- Developing the monitoring of the social, emotional and behavioural achievements for individual children.
- Strengthening the partnership with Children's Social Care so that pupils' social, emotional and academic needs are met effectively.
- The clear targeting of individual CLA educational needs, and allocation of CLA Pupil Premium and Personal Education Plan Support Allowance (PEPSA) funding via CLA Educational Provision Maps and PEPs completed by schools and social workers.
- Further raising the profile of CLA amongst all services and stakeholders.
- Effective transition so that CLA settle well in new schools.
- The placement of CLA in good or better schools wherever possible and appropriate.
- Identifying and providing appropriate support for CLA with complex needs, i.e. Attachment, Emotional, Social and Behavioural difficulties.
- Targeted Support for CLA in Mathematics.

Consultations

N/A

Implications:

Risk management

No significant risks have been identified in relation to the proposals contained in this report.

List of Background Papers

Paper	Date	Contact/Directorate/Tel
Outcomes for Children Looked After by Local Authorities	10 December 2014	Jonathan Hewitt, Directorate for Children and Young People, (01772) 531663

Appendix 'A'

Table 1

Table 1 shows the proportion of children who have been looked after continuously for 1 year at 31st March who gained the expected level of attainment in reading, writing and mathematics at the end of Key Stage 2.

	Number of pupils	Lancashire			England		
		Maths	Reading	Writing	Maths	Reading	Writing
2012	50	55%	49%	45%	56%	64%	51%
2013	40	52%	60%	48%	59%	63%	55%
2014	50	61%	65%	57%	61%	68%	59%

Table 2

Table 2 shows the proportion of children who have been looked after continuously for 1 year at 31st March who gained 5 good GCSEs and 5 good GCSEs including English and mathematics at the end of Key Stage 4.

	Lancashire			England	
	Number of pupils	5 or more GCSEs at grade A*-C	5 or more GCSEs at grade A*-C including English and maths	5 or more GCSEs at grade A*-C	5 or more GCSEs at grade A*-C including English and maths
2012	95	34.0%	12.8%	37.2%	14.9%
2013	85	28.2%	12.9%	37.2%	15.5%
2014	80	25.3%	10.1%	31.1%	14.4%
2014*	80	16.5%	8.9%	16.3%	12.8%

*These figures are calculated using the new method of calculating examination performance which was introduced by the DfE in 2014. They are not comparable with previous years' results.

Appendix 'B'

Performance Indicator Recovery Plan

- Proportion of CLA pupils attaining 5 GCSE A-C including English and Maths at Key Stage (KS) 4

Performance:
8.9% of CLA KS4 attained 5 or more A*-C grades at GCSE including English and mathematics (Unvalidated data)

Targets:
13% of CLA KS4 to attain 5 or more A*-C grades at GCSE including English and mathematics

Why are the indicators under-performing?

Key Stage 4: Attainments 2014

- There were significant changes to the national exam system in 2014 and this led to a 5% fall in the proportion of all pupils gaining 5 or more GCSEs at grade A*-C. There was also a fall in the attainment of CLA in Lancashire and nationally. Caution should be exercised when comparing exam results year-on-year. Although direct comparisons between 2014 CLA KS 4 attainment data and that of previous years is difficult due to the examination changes there is a falling trend in the achievement of CLA at the end of Key Stage 4 in Lancashire. Whilst this mirrors the national picture, Lancashire's performance is generally below average.
- A high proportion of CLA have Special Educational Needs and many of these pupils are not expected to gain 5 or more good GCSEs. In 2014 around a third of Y11 pupils had Statements for SEN. The range of their SEN is set out in the table below.

This table shows the range of SEN statements that have been given to CLA pupils in Year 11

• Autistic Spectrum Disorder	• Behavioural, Emotional and Social Difficulties	• Moderate Learning Difficulties	• Speech and Communication Difficulties	• Severe Learning Difficulties
• 3	• 11	• 9	• 1	• 1

21% of the CLA attended Special Schools and made very good progress in relation to their individual targets but did not gain 5 good GCSEs including English and mathematics.

A third of pupils attended mainstream schools but had identified additional SEN, particularly in relation to emotional, social and behavioural difficulties.

- Detailed Tracking Reports of every Year 11 CLA, indicate that the great majority have made good academic, educational, social and emotional progress in relation to their baseline and circumstances, and are moving on to further education or training but the proportion gaining 5 or more A*-C grades at GCSE is a key area of concern.
- The progress of CLA pupils in English was broadly average but it was particularly low in mathematics and this affected the proportion of pupils gaining 5 good GCSEs including

English and mathematics.

- Whilst the great majority of services and schools give a high priority to CLA there is a lack of consistency in recognising the links between the social and emotional aspects of development of CLA and improving academic achievement.
- Monitoring systems are used by the Virtual School to track pupil progress but these have not been consistently effective in identifying concerns about educational progress early enough and linking them to the work of Children's Social Care and schools.
- The resources to enhance the achievement of CLA (Pupil Premium and PEPSA) has largely been effective but it needs to be monitored more closely to ensure that schools are using the resources effectively and that causes of underachievement beyond the school are identified and receive the appropriate support.
 - As reported in the July 2014 Ofsted report "The Pupil Premium: an Update", in some schools there has been insufficient focus on monitoring and evaluating interventions to improve CLA pupil progress .
 - The CLA Pupil Premium (£1900 per CLA) is now the responsibility, and managed by, all Virtual School Headteachers across the country.

What actions are required to put it back on track?

Action to be taken	Lead	Completion Date
1. Ensure all CLA have an Educational Provision Map (as part of the CLA Personal Education Plan), which clearly identifies: <ul style="list-style-type: none"> • the CLA 's educational targets and • the interventions and relevant funding streams required to meet expected targets. 	Virtual School Headteacher (HT)	September 2014
2. Continue facilitation of training for Designated Teachers for CLA in schools across Lancashire , and to share and disseminate effective practice.	Virtual School HT	September 2014
3. Using the NW Virtual School Headteachers Meeting to identify good practice across the region.	Virtual school HT	September 2014
4. Monitor the social, emotional and academic progress of CLA at least every 6 months using the Education Provision Maps and PEP.	Virtual School HT	January 2015
5. Provide CLA and their schools with CLA Pupil Premium to assist in supporting the educational targets and interventions identified on the CLA's Educational Provision Map and PEP.	Virtual School HT	January 2015
6. Develop effective identification of all secondary CLA experiencing underachievement (with a focus on Year	Virtual School	January 2015

<p>10 and Year 11 Lancashire CLA requiring intensive educational support for GCSE; particularly CLA with identified 'potential' to achieve 5 GCSE including English and Maths.</p> <p>7. Track the progress of secondary CLA pupils systematically over the year ensuring appropriate intervention and support is in place, making effective use of the CLA Pupil Premium and brokering in additional support as necessary.</p> <p>8. Provide bespoke and individual support and advice packages for CLA pupils experiencing difficulties in school due to:-</p> <ul style="list-style-type: none"> ○ change of school or care placement, ○ pupil experiencing emotional , social or / and behavioural difficulties ○ risk of exclusion ○ significant underachievement <p>This may involve:</p> <ul style="list-style-type: none"> ○ 1 to 1 tuition in apecific subjects including mathematics ○ Learning Mentor Support ○ Educational Psychologist Assessment ○ Alternative education package <p>9. Strengthen the partnership between Children's Social Care and the Virtual School for CLA through timely sharing of information regarding CLA at risk of underachieving and structured induction for newly qualified social workers.</p> <p>10. Share key messages from national research into underlying barriers and effective support for CLA pupils through the Secondary School Senior Leader Network.</p> <p>11. Develop the Quality Assurance model for Virtual School for CLA to monitor and evaluate the effectiveness of EPMs , PEPs and CLA Pupil Premium. To buy in adviser time for Quality Assurance.</p> <p>Support the transition of CLA into new schools, including additional support for Y6 pupils most at risk of underachievement as they transfer to secondary schools.</p> <p>12. The profile of the Virtual School for CLA is promoted through school advisers and support from the Corporate Parenting Board.</p>	<p>HT</p> <p>Virtual School HT</p> <p>Virtual School HT & Educational consultants</p> <p>Virtual School HT / Head of CSC</p> <p>Virtual School HT & Specialist Adviser</p> <p>Virtual School HT & Advisers</p> <p>Virtual School HT & Educational consultants</p> <p>Virtual School HT &</p>	<p>January 2015 ongoing</p> <p>January 2015</p> <p>March 2015</p> <p>March 2015 termly</p> <p>May 2015</p> <p>July 2015</p> <p>July 2015</p>
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	Advisers	
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THE LOCAL AUTHORITIES (EXECUTIVE ARRANGEMENTS) (MEETINGS AND ACCESS TO INFORMATION) (ENGLAND) (REGULATIONS) 2012

NOTICE OF INTENTION TO CONDUCT BUSINESS IN PRIVATE

Notice is hereby given in accordance with Regulation 5 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 that the following meeting is likely to move into private session to consider the item detailed below:

MEETING: Cabinet Committee on Performance Improvement

DATE OF MEETING: 4 February 2015

TITLE OF DECISION TO BE TAKEN: Quarterly Report on the Service Delivery and Performance of the County Council's Waste Disposal Company – January 2015

The details of the proposed decision are as follows:

The Cabinet Committee on Performance Improvement will consider a report from the Interim Executive Director for Environment.

Further information on the proposed decision can be obtained from:

Steve Scott, Tel: 01772 533755, Email: steve.scott@lancashire.gov.uk

The reason that the item is likely to be considered in private is that it will involve the disclosure of exempt information under the following categories of Schedule 12A of the Local Government Act 1972:

Paragraph 3 - Information relating to the financial or business affairs of any particular person (including the authority holding that information).

Paragraph 4 - Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.

(A final decision on whether this item will be determined in private will be taken during the meeting).

Should you wish to make any representations in relation to the meeting being held in private for the consideration of the above item, please contact:

Dave Gorman, Tel: 01772 534261, Email: dave.gorman@lancashire.gov.uk

No Representations have been received.

Agenda Item 12

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