

STOCKTON-ON-TEES BOROUGH COUNCIL

CABINET RECOMMENDATIONS

PROFORMA

Cabinet Meeting14th January 2016

1. Title of Item/Report

Mental Capacity Act Deprivation of Liberty
Safeguards

2. Record of the Decision

Consideration was given to a report on the details of the changes to the Mental Capacity Act Deprivation of Liberty Safeguards following the Supreme Court Judgment on the Cheshire West and Chester Council and Surrey County Council cases (March 2014).

The implications for the Council in relation to this were also outlined, including details of the work in progress to identify the risks and resource implications of the revised legal framework. The report provided an update on operational activity and financial projections for 2015-2016.

Following the Supreme Court Ruling on 19 March 2014 : P -v- Cheshire West and Chester Council and P and Q -v- Surrey County Council, there had been a radical change to the legal definition of and the test for Deprivation of Liberty (DoL), which must be followed.

There were two key questions that needed to be considered when applying the test:

- Is the person subject to continuous supervision and control?
- Is the person free to leave?

For a person to be deprived of their liberty, they must be subject both to continuous supervision and control and not be free to leave. They must also lack the mental capacity to consent to the relevant care and support arrangements, where they had been put in place by the State. Attached to the report were more details of the judgment (a link to the full judgment is embedded in the Department of Health letter). Also attached to the report was the Department of Health's October 2015 Update on the Mental Capacity Act and DoLS.

RESOLVED that:-

1. The content of the report, the implications of the judgment and the requirement for additional work to be carried out be noted.

2. Cabinet receive regular updates on progress against the operational plan. The next update is planned for October 2016.

3. The requirement be noted for interim funding for 2016-2017 of £546,000 to be considered as part of the Medium Term Financial Plan. This is to enable the required improvement work to be undertaken as part of the lean work planned for adult operational services.

3. Reasons for the Decision

To keep Cabinet informed of progress with respect to the related plan of work.

4. Alternative Options Considered and Rejected

None.

5. Declared (Cabinet Member) Conflicts of Interest

Councillor Cooke declared a disclosable interest in respect of agenda item 7 - Mental Capacity Act Deprivation of Liberty Safeguards Update as he was an employee of Tees and Esk Wear Valley NHS Foundation Trust.

Councillor Mrs McCoy declared a personal non prejudicial interest in respect of agenda item 7 - Mental Capacity Act Deprivation of Liberty Safeguards Update as she was on the Board of Governors of Tees and Esk Wear Valley NHS Foundation Trust.

6. Details of any Dispensations

Councillor Cooke has been granted a dispensation in relation to his disclosable pecuniary interest concerning his employment / employer Tees and Esk Wear Valley NHS Foundation Trust.

7. Date and Time by which Call In must be executed

Midnight on 22nd January 2016.

Proper Officer

18 January 2016