

STOCKTON-ON-TEES BOROUGH COUNCIL

CABINET RECOMMENDATIONS

PROFORMA

Cabinet Meeting1st December 2016

1. Title of Item/Report

Deprivation of Liberty Standards (DoLS) Update

2. Record of the Decision

Consideration was given to a report that provided an update on improvement work completed in relation to the application of the Mental Capacity Act Deprivation of Liberty Safeguards (DoLS)

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). The Ruling must be followed.

As outlined in previous Cabinet reports, a much greater number of existing and potential clients were now considered within the scope of the Safeguards, including the current care home population and people living in supported living, both within and outside the Borough, who were Stockton-on-Tees residents and who were aged 16 or over. These clients required assessments for mental capacity as the first stage in the process. Members were provided with details of the legal framework and statutory duties.

The Law Commission's Mental Capacity Act and Deprivation of Liberty consultation closed in November 2015. A final report with recommendations and a draft Bill were expected to be published in 2016. The interim statement published on 25th May 2016 reached a number of conclusions, which if implemented, could have a significant impact on working practices and resources in the longer term, which would require ongoing additional resource. The interim conclusions were summarised and provided.

The key risk areas in relation to undertaking the DoLS function had been identified and were detailed.

Following an initial scoping exercise, a work programme is in progress to ensure that current clients are not unlawfully deprived of their liberty.

Working practices have also been reviewed to ensure that the new test is embedded in practice and risks to vulnerable clients and the Council are mitigated, as far as is reasonably practicable.

Client assessments resulting from the Supreme Court ruling had been

prioritised by client group and care and support arrangements, in line with the Association of Directors of Adult Services (ADASS) priority tool. This “managed approach” was subject to ongoing review to ensure that priority continued to be given in accordance with those clients at greatest risk. Authorisation requests outside of this work programme, and re-assessments for those people subject to an authorisation of DoL, were being processed within the statutory timescales. It was anticipated that the DoLS assessments for those clients identified within the “managed approach” would be completed by December 2016. Current and projected activity was provided.

It was unclear why the North East was an outlier but the returns across the area were double the national average. The North East ADASS region had commissioned further analysis.

Cabinet were provided with details of improvement work that was completed in relation to the DoLS function.

The next steps included:-

- The operational plan would continue to be implemented and monitored.
- Improvement work would be undertaken with a focus on Section 12 doctor and other direct costs.
- Quality Assurance of the whole process would continue to be monitored through the MCA DoLS Steering Group and Adult Care Management Team.
- Tees-wide Safeguarding Adults Board and Local Safeguarding Children’s Board reporting will be undertaken as appropriate.

The DoLS budget was currently funded through one year Corporate funding of £546k as well as social care funding of £76k. Funding for the implementation of the DoLS function had been agreed until 31.3.2017. Expenditure in 2016-17 was projected to exceed the budget by £298k.

As a result of the improvement work completed to ensure lean processes, potential savings had been identified to reduce the cost of the DoLS function. A future resource requirement of £471,300 had been identified for consideration as part of the Medium Term Financial Plan. As some of the savings would not be realised until 2018-19, a further £281,000 was required for 2017-18 and would also need to be considered in the medium term financial plan. Work would continue to identify efficiencies and savings. The resource requirement was detailed.

RESOLVED that:-

1. The content of the update report, the implications of the judgment and the requirement for additional work to be carried out be noted.
2. The requirement for substantive funding of £471,300 to be considered as part of the Financial Plan be noted.
3. The requirement for additional one year funding for 2017-2018 of £281,000 to be considered as part of the Financial Plan be noted.
4. Cabinet receive regular updates on progress against the operational plan. The next update was planned for the autumn of 2017.

3. Reasons for the Decision

To keep Cabinet informed of progress with respect to the related plan of work and ongoing resource requirements.

4. Alternative Options Considered and Rejected

None

5. Declared (Cabinet Member) Conflicts of Interest

Councillor Nigel Cook declared a personal non prejudicial interest in item 6 entitled 'Deprivations of Liberty Safeguards as he was employed by Tees, Esk and Wear Valley Mental Health Trust.

Councillor Ann McCoy declared a personal non prejudicial interest in item 6 entitled 'Deprivations of Liberty Safeguards as she was on the Board of Governors of Tees, Esk and Wear Valley Mental Health Trust.

6. Details of any Dispensations

N/A

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

Midnight, 9th December 2016

Proper Officer
05 June 2016