

WMADASS BRIEFING NOTE

Pre- planning for the outcome of the Supreme Court case regarding the meaning of valid consent in relation to a deprivation of liberty.

If the outcome of the case is that valid consent can be inferred from a person's wishes and feelings, this will affect the numbers of people who are within Article 5 and who need the protection of DoLS or community dol Orders.

At this stage, without the decision and without consideration of safeguards which may be required in order to assess valid consent, it is hard to predict the impact on numbers.

It may be that some Councils will return to a situation where they can process DoLS within the required time limits and can manage the referrals within budget. It may also be the case that demand for community dol Orders reduces in a comparable way.

It will be essential to plan ahead because there may be numbers of people with a DoLS authorisation or a Court Order, who no longer require this. A wide publicity programme will be needed in order to ensure referrals for DoLS are based on an understanding of the Supreme Court judgment. A programme of reviews of existing DoLS authorisations will also be needed. However, it is important to balance the workforce implications required in order to assess valid consent, carry out extensive DoLS reviews and inform and train partners.

Likely actions required

- Development of a strategic approach
- Carry out immediate risk assessment
- Essentially all actions which were carried out following Cheshire West will be required in reverse -materials, websites, training materials, advice, work with partners
- Information and publicity to Managing Authorities – especially reminder that a DoLS authorisation doesn't have to be enforced.
- Communication training to support the determinations as to whether someone can or is giving valid consent.
- Training – MCA training, Advocacy training, DoLS training, Community dol training will need updating

- BIA training will need updating possibly also BIA competency framework and Social Work England standards
- PSWs will need to advise and monitor changes in SW practice relating to identification of valid consent
- CQC as a means of publicity
- Remember community dol Orders; judiciary, ICBs
- Development of safeguards to protect those who no longer require Authorisations
- Monitor and review the priority of people on the waiting list
- Review and cease existing DoLS Authorisations
- Consider assessing renewals early
- Monitor the impact on applications, e.g. are Managing authorities now taking the correct approach – how do the numbers look
- Consider, review and amend priority screening tools for DoLS and CoP Dols
- Consider how and where Article 8 issues will be identified, train the social work workforce
- After an initial period where much additional work is required, assess costs and budget implications going forward

Updated information will follow once the decision is available.

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