



Safeguarding Adults and the Deprivation of Liberty Safeguards

SUMMARY

- 1.1 Safeguarding Adults and the Deprivation of Liberty Safeguards (DOLS) are statutory functions which must be fulfilled by the Local Authority, and are areas of work which promote the safety and uphold the rights of citizens who have care and support needs.
- 1.2 Protecting vulnerable adults and children is one of the eight key priority outcomes set out in the Derby Plan 2016-2019.
- 1.3 There have been significant increases in work in both of these areas since the implementation of the Care Act (2014) and since landmark DOLS case law in 2014.
- 1.4 The increase in these statutory areas of work has had an impact on productivity, workflow, performance and budgets, and early indicators are that this will continue to be the case in the foreseeable future.
- 1.5 A decision was taken by the Chief Officers Group to implement a Multi-Agency Safeguarding Hub (MASH) and this went live with key partner agencies (Police and Health) from 19th September 2016.

RECOMMENDATIONS

- 2.1 To note the significant increase in safeguarding adults activity since the implementation of the Care Act (2014), and the subsequent increase in demand on Adult Social care resulting in increased need for resources to meet this demand
- 2.2 To note the implementation of the MASH and improvements to partnership working
- 2.3 To note that as Safeguarding is a key part of the Derby plan, it is important that it is appropriately resourced to enable Derby City Council to meet its statutory duties and to meet the requirement to promote the safety of adults with care and support needs
- 2.4 To note the significant increase in DOLS applications since the Supreme Court judgement in March 2014, the challenges of meeting the statutory timescales, the impact of this increase on service delivery across Adult Social Care and the budget implications.

REASONS FOR RECOMMENDATIONS

- 3.1 The increase in safeguarding activity has an impact on the capacity of Adult Social

- Care to be as responsive to wider Care Act responsibilities.
- 3.2 The implementation of MASH has been significant in improving partnership working and information sharing; however for this to continue to develop and show further efficiencies, additional resources are required.
 - 3.3 DOLS applications have increased significantly however given the number of care homes and hospitals within the city it is clear that we are not receiving all of the applications we should be. As such, it is likely that this number will continue to grow. In addition, due to the cyclical nature of the authorisation and reauthorisation process, the majority of cases currently authorised will need to be re-authorised in the next year.

SUPPORTING INFORMATION

- 4.1 Safeguarding Adults means protecting an adult's right to live in safety, free from abuse and neglect. It is about people and organisations working together to prevent and stop both the risk of, and experience of, abuse and neglect. It is about making sure the adult's wellbeing is promoted while having regard to their views, wishes feelings and beliefs in deciding on any action.
- 4.2 Safeguarding adults has been given statutory footing by the Care Act (2014). Safeguarding duties apply to adults who have need for care and support, and are experiencing, or at risk of, abuse or neglect, and who are unable to protect themselves from the abuse or neglect because of their care and support needs.
- 4.3 The Care Act (2014) sets out expectations of statutory agencies, and the private, voluntary and independent sector in relation to Safeguarding Adults. There is a requirement on the Local Authority to be the lead agency in co-ordinating responses to allegations of abuse or neglect.
- 4.4 One of the recommendations from the Care Act (2014) was that partner agencies should consider having a Multi-Agency Safeguarding Hub (MASH). As such, Derby City has a MASH which consists of representatives from Adult Social Care, Children and Young Peoples Social Care, Derbyshire Police and Health. Colleagues are co-located within the Council House and respond to a range of Safeguarding adult and children issues.
- 4.5 The Adult Social Care part of the MASH is the single point of access for all new safeguarding adult referrals. Referrals are made by telephone and/or referral form about a range of safeguarding issues which include physical, financial, sexual, psychological, organisational and discriminatory abuse, and also acts of neglect and omission. The Care Act (2014) introduced domestic abuse, modern slavery and sexual exploitation as categories of abuse.
- 4.6 The Adult Social Care part of the MASH is comprised of 4 full-time equivalent qualified social workers and a full-time senior practitioner who has line management responsibility for the social workers. These staff are all permanently located within the MASH. There is also currently a 0.6 FTE agency social worker in place. There is administrative support provided by the Safeguarding Adults Team administrators and operational management support from the Safeguarding Adults Team Manager and Head of Service where needed.

- 4.7 The MASH started with partners from Derbyshire Constabulary and Childrens Social Care in June 2016, and Adult Services and Health Partners joined from September 2016. Early indicators are that there has been greater partnership working and more effective sharing of information. This in turn improves the experience of safeguarding for the adults affected.
- 4.8 In 2016/17 there were a total of 2,432 safeguarding Adults referrals. This is a 7% increase on 2015/16, however it is a 53% increase on pre-Care Act numbers, which evidences the significant increase in work for all partner agencies in relation to Safeguarding Adults since the implementation of the Act in 2015.
- 4.9 For 2015/16 Derby's safeguarding adults further enquiries were at a rate of 340 per 100,000 population, which is significantly higher than comparator (227), regional (231) and national (239) averages. This higher rate is also reflected in gender, ethnicity and age group statistics. This could be explained by the variable interpretation of the Care Act criteria nationally. This is being explored at a regional and national level to support consistent application of the criteria.
- 4.10 Physical abuse has been consistently the highest category of abuse over the last three years and we have seen an increase of 20% in this area since 2015/16. Neglect and acts of omission is the second highest category of abuse having seen an increase of 24% on last year.
- 4.11 As new categories of abuse introduced by the Care Act (2014) it is interesting to note that there has been a 16% increase in Domestic Abuse safeguarding referrals and a 75% increase in Modern Slavery safeguarding referrals since last year. This can be explained by the increased awareness of how these areas fit into Safeguarding Adults since the Care Act.
- 4.12 There are data quality and consistency issues which present issues in producing accurate quarterly performance reports. It is however hoped that the introduction of the Adult Social Care MASH Team will streamline and co-ordinate the safeguarding system, however there have been initial set-up and work flow challenges to overcome.
- 4.13 The implementation of the Adult Social Care Information System Safeguarding Adult module will assist with the data entry, consistency and quality issues.
- 4.14 One of the key changes to adult safeguarding introduced by the Care Act was the concept of Making Safeguarding Personal (MSP). This puts the views of the adult at the centre of safeguarding, and encourages practitioners to shape safeguarding responses in line with what the adult says they would like to happen. Performance measures have been developed and collated since June 2016 to enable analysis of the MSP outcomes expressed by the adult. The MSP data is reported to the Safeguarding Adults Team at the point the case is closed, which can mean that figures are not as high as the total safeguarding referral numbers. In addition it is also worth noting that there are a high number of questions where adults have chosen not to answer.

- 4.15 Of the cases where we have this data, 58% of adults felt that they were asked what they wanted to happen as a result of the Safeguarding and 38% did not answer. 57% of adults felt that they were listened to during the safeguarding process, 42% did not answer. 53% were happy with the result of the Safeguarding, 43% did not answer. 48% felt that they had been listened to and felt their outcomes had been met, but 49% did not answer.
- 4.16 We are keen to seek feedback and views from adults who have experienced safeguarding and as part of the MSP questions we ask whether the adult or their representative would like to be part of a feedback focus group. 95% of adults decline this offer, however 5% accepted. This has not translated into a focus group event as yet, as circumstances have sadly changed for number of those individuals and they are no longer willing or able to participate in an event.
- 4.17 The Deprivation of Liberty Safeguards (DOLS) came into effect in 2009 as an amendment to the Mental Capacity Act (2005). The aim of the safeguards are to ensure that those who lack capacity to consent to their care and treatment are not detained in hospitals or care homes in circumstances which amount to a deprivation of their liberty without due regard to the law.
- 4.18 The safeguards are a mechanism by which any such care arrangements can be authorised through the completion of assessments by suitably qualified professionals (Best Interests Assessors and s.12 Doctors) within a statutory timescale, and a signing off process by the local authority at a senior manager level. The safeguards enable the relevant person to access advocacy and access to the Court of Protection if so required, and provides additional mechanisms for review of their care.
- 4.19 Once an authorisation has been granted, if circumstances do not change, the case enters into a cyclical process of reauthorisation. In addition, DOLS reviews can be called at any time and require assessment and sign-off to be undertaken.
- 4.20 The DOLS team is staffed by 5.5 FTE Best Interests Assessors and a full time DOLS administrator. In addition, DCC have a pool of Best Interests Assessors who are located within the Community social work teams. Additional DCC staffing has been agreed to meet the increased demand, and on occasion independent assessors are commissioned to assist, at an additional cost. In all cases where an authorisation is needed, a s.12 Doctor will be instructed but this also incurs a fee.
- 4.21 The Local Authority has a statutory role as the Supervisory Body to ensure that any authorisation granted meets the statutory requirements. This duty creates a reputational and financial risk for the Local Authority should any deprivation of liberty be unauthorised.
- 4.22 In March 2014 a Supreme Court ruling brought into effect the "Acid Test" which lowered the threshold for Deprivation of Liberty. It stated that anyone who lacks capacity to consent to their care and treatment, who is subject to continuous supervision and control and is not free to leave is being deprived of their liberty, and this needed to be authorised through the DOLS process or the Court of Protection.

- 4.23 As a result of this there was originally a ten-fold increase in DOLS applications which has now accelerated to over a twenty-fold increase since the Supreme Court judgement. In 2013/14 we received only 55 applications, however in 2016/17 we have received 1234 applications.
- 4.24 While 50% of these applications have been granted and 8% have not been granted, 28% of applications are awaiting sign off by a senior manager and 11% are awaiting allocation to an assessor. The application has been withdrawn in 3% of cases.
- 4.25 This level of increase has inevitably had an impact on service delivery and resources. Where previously we have striven to meet all statutory time frames, it has not been possible to do this consistently this year.

OTHER OPTIONS CONSIDERED

- 5.1 Given that both of these areas of work are statutory and contribute to the “safe” objective in the Derby Plan, this work must be completed.
- 5.2 Prior to the implementation of the Adult Social Care part of the MASH, new referrals for Safeguarding Adults were processed via Derby Direct and then redirected to the relevant community team for a duty worker to respond. This led to inconsistencies in approach and response, and contributed to the delays in collation of data for performance monitoring.
- 5.3 Training is currently being rolled out across Head of Service and Service Directors in People Services to increase the pool of suitable Supervisory Body signatories to reduce the waiting list for sign offs and create capacity moving forward.
- 5.4 Additional posts have been agreed within the DOLS team to assist in meeting the increased demand, and support DCC to meet statutory obligations.
- 5.5 A tendering process has been underway to look at the costing and methods of procuring independent assessors and Doctors for completion of relevant DOLS Assessments.

This report has been approved by the following officers:

Legal officer Financial officer Human Resources officer Estates/Property officer Service Director(s) Other(s)	Olu Idowu, Head of Legal Services Alison Parkin Liz Moore n/a Perveez Sadiq, Service Director Adults and Health
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IMPLICATIONS

Financial and Value for Money

- 1.1 Prior to the MASH there were approximately 16 staff on duty across Adult Social Care, each spending approximately 50% of their duty days on Safeguarding Adults enquiries. This duty system was supported with 8 Team Managers and a number of Senior Practitioners being available to provide information, guidance and support as required. The Adult Social Care MASH team is staffed by 4 FTE and 1 Senior Practitioner on a permanent basis. There is also a 0.6 FTE agency social worker in place to assist with pressures on a short-term basis.
- 1.2 The implementation of MASH has created efficiency in the number of staff dealing with initial Safeguarding Adult enquiries; however this has left the MASH under-resourced to deal with the volume of safeguarding enquiries coming into DCC to a safe and sufficient standard.
- 1.3 The use of Independent Best Interests Assessors for DOLS costs anything between £300 and £400 per assessment. The use of Independent Assessors is kept to a minimum, however is necessary in certain cases. The commissioning of s.12 Doctors costs £185 to £200 per assessment and is required in all new cases and most repeat cases. This is an ongoing cost that is inevitable to increase with the increase in numbers of authorisation requests that is predicted.
- 1.4 It is important to note that one Local Authority was fined £60,000 by the Court of Protection for the unlawful deprivation of liberty of a 91 year old in a care home. Failure to meet our statutory obligations can be costly both in terms of financial penalties and reputation.
- 1.5 There is a cost implication for taking cases to Court of Protection where there are objections or contentious circumstances. Legal costs can vary per case between £2000 and £20,000. There is no specific budget provision in place to meet these costs.

Legal

- 2.1 Local Authority duties for Safeguarding Adults are set out in the Care Act (2014).
- 2.2 Local Authority duties for the Deprivation of Liberty Safeguards are set out in schedule A1 and 1A of the Mental Capacity Act (2005).

Personnel

- 3.1 The MASH has personnel from Derbyshire Police, DCC Adult Social Care, DCC Children and Young People Services and Health partners.
- 3.2 The DOLS service has personnel from DCC Adult Social Care, but also uses independent Best Interests Assessors and s.12 Doctors.

IT

- 4.1 The safeguarding module in the Adult Social Care IT system will reduce duplication, streamline process and create efficiency in data collection and performance reporting.

- 4.2 Further work is required to look at the DOLS module in the Adult Social Care IT system to replace the manual data entry system in place for statutory data returns and performance monitoring.

Equalities Impact

- 5.1 Safeguarding Adults and the Deprivation of Liberty Safeguards encompasses all aspects of the diverse community of Derby, and promotes the safety of those with protected characteristics.

Health and Safety

- 6.1 There are a number of potential Health and Safety risks identified across Safeguarding Adults and DOLS work, including lone working risks and stress due to the volume and nature of work.
- 6.2 Risk assessment is undertaken, and mitigation plans put in place to reduce the impact and likelihood of risk occurring.

Environmental Sustainability

- 7.1 No Implications

Property and Asset Management

- 8.1 It is essential for the success of the MASH that appropriate secure space is located within the Council House, to facilitate multi-agency working for safeguarding adults and children.

Risk Management and Safeguarding

- 9.1 The arrangements will safeguard adults with care and support needs across Derby City.
- 9.2 The council will continue to discharge its statutory duty as lead agency for Safeguarding and Deprivation of Liberty Safeguards
- 9.3 There are risks around sharing of information, which are mitigated by all staff having data protection and Information Governance training. Information sharing is done in line with the Derby Safeguarding adults Board information sharing agreement, and rationale for sharing information is recorded.
- 9.4 Steps to improve data quality and consistency are in place and include recording directly into the Adult Social care IT system. This will continue to be monitored and further solutions sought.
- 9.5 The Local Authority has a statutory role as the Supervisory Body to ensure that any authorisation granted meets the statutory requirements. This duty creates a reputational and financial risk for the Local Authority should any deprivation of liberty be unauthorised.

Corporate objectives and priorities for change

- 10.1 Safeguarding Children and Adults is one of the 8 priority outcomes in the Derby Plan.