



Did you know?

Mental Capacity Act

The trust is committed to providing training and guidance to staff on their responsibilities under the Mental Capacity Act and the Deprivation of Liberty Safeguards in order to ensure:

The Trust complies with the law

All patients' human rights are protected

Staff are supported to act in patient's best interests in accordance with the law

“Human rights are for everyone, including the most disabled in our society and those rights include the same right to liberty as has everyone else...” – Supreme Court 2014

THE MENTAL CAPACITY ACT 2005 is a law which came into force in 2007 and provides for the legal authority to treat patients who lack the mental capacity to consent to treatment or care who are 16 or over.

Decisions on behalf of all patients who are assessed as lacking capacity must be made in accordance with the act for them to be lawful.

There are five principles that underpin the MCA and all staff should have regard to these principles when working with people who may lack capacity.

There is a two stage capacity test which must provide evidence of a lack of capacity before acting in someone's best interests.

THE DEPRIVATION OF LIBERTY SAFEGUARDS 2007 came into force in 2007 and applies to all people over 18 years of age who lack mental capacity to consent to care or treatment which involves them being admitted and required to stay in hospital for a period of time.

“The Acid Test”

- **The patient is under constant supervision and control**
- **The patient is not free to leave or discharge by any other person would be refused**

Deprivation of liberty is a legal term defined by the Human Rights Act and European case law, a legal precedent in the Supreme Court in March 2014 clarified just what constituted a Deprivation of Liberty by highlighting “The Acid Test”.

Our current performance:

There is a programme in place for the practice development facilitator to visit each ward and support the staff in compliance with the Act; several inpatient areas have developed expertise and confidence as a result.

Dols Authorisations are increasing due to more awareness and training, this means more patients' human rights are being protected. Examples of good working systems are to be found on Brearley 7, Robert Hadfield 3 and 4 and 5, and Neuro ITU and wards. The work is developing in other inpatient areas.

Training is available via the intranet

<http://nww.sth.nhs.uk/NHS/SafeguardingPatients/MentalCapacityAct/> or by contacting Nicola Smith on 0114 226664.

Mental Capacity Act overview	All Staff	3 hours
Assessing Mental Capacity and Best Interests Decision Making	All Staff	6 hours
Deprivation of Liberty Safeguards	All Staff	6 hours
Capacity Assessment Master class	All Staff	2 hours
Best Interests Master class	All Staff	2 hours

Support, advice and guidance for all issues regarding MCA and DoLS is available from our practice development facilitator. Please contact Lynne Holtom by emailing lynne.holtom@sth.nhs.uk or telephoning 0114 2266644.