Belfast Health and Social Care Trust
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The Mental Capacity Act (Northern Ireland) 2016

Phase One
Deprivation of Liberty Safeguards (DoLS)

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Today…

- Mental Capacity
- Deprivations of Liberty
- Authorisations under MCA
- Emergency Provisions
- Roles and Responsibilities
- The Mental Health (Northern Ireland) Order 1986
- Q and A

What is the Mental Capacity Act (Northern Ireland) 2016?

- New legislation which is being implemented in a phased approach. When it is fully implemented the Mental Health (Northern Ireland) Order 1986 ("the 1986 Order") will be repealed for anyone over the age of 16.
- The MCA provides a statutory framework for people who lack capacity to make a decision for themselves.
- Depriving a person of his or her liberty is one of the most serious infringements on a person's human rights. As such, this new legislation will involve changes in how we deliver support to patients and service users who lack capacity whilst they are in hospital or in a regulated care environment.
- It applies to all individuals aged 16 years and above

What is Mental Capacity?

unable to make a decision for himself or herself about the matter, because of an impairment of, or a disturbance in the functioning of, the mind or brain.

What is a Deprivation of Liberty?

Not free to leave

AND

are under continuous supervision

and control

Commonly referred to as the 'acid test'

To deprive P of liberty you must ALWAYS have:

1. A reasonable belief P lacks capacity

AND

2. A reasonable belief the DOL is being done in P's best interests for the prevention of serious harm (POSH)

Further safeguards must be put in place as soon as practicable. These include:

What are the Deprivation of Liberty Safeguards (DoLS)?

- Formal Assessment of Capacity is completed
  - Form 1
- The Nominated Person is consulted
  - Form 2
- Prevention of Serious Harm condition is met
  - Form 2
- Authorisation is applied for and granted
  - Trust Panel Authorisation (TPA)
  - Short Term Detention Authorisation (STDA)

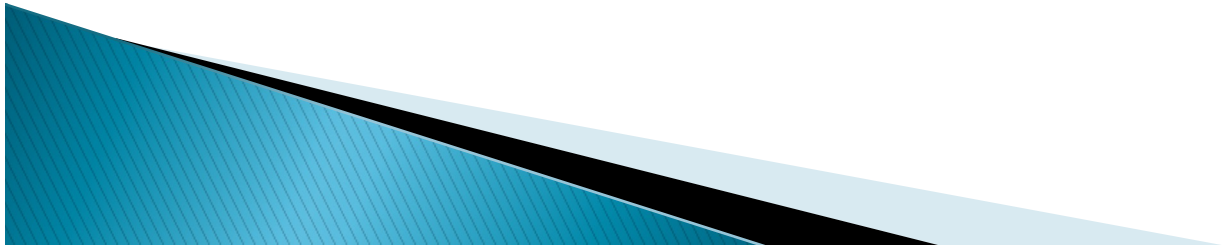
These are all completed by Trust staff who are one of the following professions, trained to Level 4a and have appropriate experience: social workers, occupational therapists, speech and language therapists, doctors, psychologists, nurses or dentists.

Authorisation

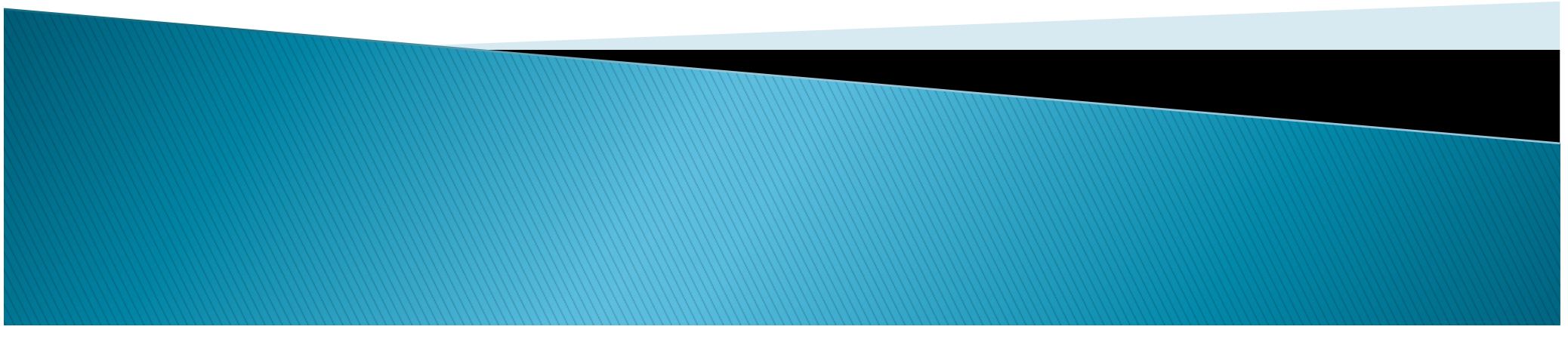
Can be sought in two ways under the Act:

Short-term Detention Authorisation in hospital for examination, or examination followed by treatment – can last for a maximum of 28 days. The short term detention of P must be in a hospital setting and must also include an element of examination, or examination followed by other treatment and care

Trust Panel Authorisation – can last for a maximum of six months and may be extended, initially for six months and then for one year at a time.



Emergency Provisions



Emergency Provisions

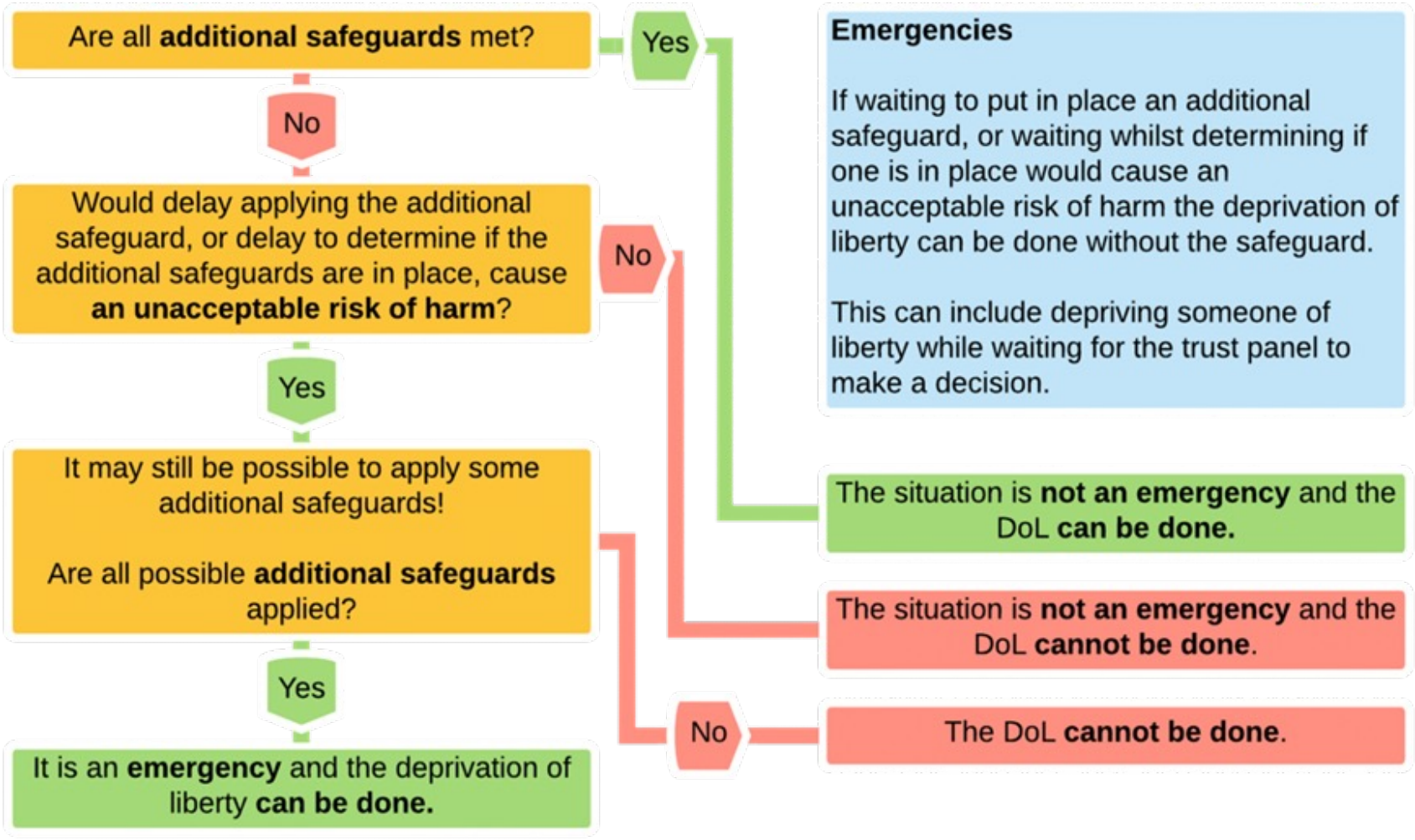
- The emergency provisions of the MCA enables a patient to be taken to or to stay in a place of a DoL without all of the deprivation of liberty safeguards being in place yet.
- Not necessarily a MEDICAL emergency

- The General Safeguards are required:
  - reasonable belief of incapacity
  - reasonable belief of best interests
  - as well as the additional safeguard of POSH **must always be met,** whether it is an emergency or not

- The requirement under emergency provisions is a recording in the patient's notes. Tools have been developed in Trusts to support with this including a letter and a checklist.

- There is no time limit to emergency provisions but DoLS should be applied as soon as is practicable. The Trust does this.

Emergency DoL



Roles and Responsibilities

- Complete your training
- Whilst it is a Trust responsibility to complete DoLS, the law is everyone's responsibility and you may need to use it.
- If a patient presents who might need admitted to acute hospital but does not meet MHO criteria, apply MCA using emergency provisions where it is not practicable to apply safeguards. Note – this is no different to what you would do before MCA to keep a patient safe, except now there is a legal framework to do so.
- Consult with the Trust if you are unsure which framework to use.
- Escalate any challenges around conveyance through your management channels.
- Keep in touch – we are here here to help.

Challenges

- Conveyance
- MHO vs MCA
- Knowledge and understanding around MCA
- Accessing Support

E-Learning Links

Level 2: E-Learning

This is basic awareness training and should be completed by all client facing staff. Please note, this training is available in other formats. For more info, contact MCA Team:

https://www.health-ni.gov.uk/mental-capacity-act-training

Level 3 E-Learning

This is deprivation of liberty training and should be completed by all staff who will work with people who may be deprived of their liberty. Examples include Social Workers, Social Care Workers, Nurses, Doctors, day centre staff and many others. If you are unsure if you should complete this training, talk to your line manager or contact MCA Team:

http://mca-learning.health-ni.gov.uk/level3/

Level 4a E-Learning

This training is for those who will complete functions under MCA including assessment of capacity. The following professionals can fulfil this task: medics, social workers, nurses, OTs, SALTs, dentists and psychologists.

http://mca-learning.health-ni.gov.uk/level4/

Contact Details

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