



**18<sup>th</sup> April 2016**

**Agenda Item: 9**

## **9REPORT OF THE SERVICE DIRECTOR, MID NOTTINGHAMSHIRE DEPRIVATION OF LIBERTY SAFEGUARDS**

### **Purpose of the Report**

1. To update Members on the progress with actions being taken to respond to the increasing number of referrals for Best Interest Assessments (BIAs) under Deprivation of Liberty Safeguards (DoLS).
2. To approve the permanent establishment of 25 posts and the extension of 3 temporary posts for 12 months.

### **Information and Advice**

3. Some information relating to this report is not for publication by virtue of paragraph 3 of Schedule 12A of the Local Government Act 1972, this covers information relating to the financial or business affairs of any particular person (including the Council). Having regard to all the circumstances, on balance, the public interest in disclosing the information does not outweigh the reason for exemption because of the risk to the Council's commercial position disclosure is likely to pose. The exempt information is set out in the **Exempt Appendix**.
4. In December 2014 and June 2015 reports were presented to Committee which highlighted the impact for the Council arising from legal judgements in relation to the Deprivation of Liberty Safeguards (DoLS). These arose from the publication of the Supreme Court judgment in the case of P v Cheshire West and Chester Council, and P and Q v Surrey County Council, which further defined the meaning of Deprivation of Liberty and significantly expanded the number of people to whom it applies. These previous reports set out the predicted national and local increase in demand for assessments and the proposed Corporate Strategy and plan to address these. Resources were approved in order to meet these new pressures in Nottinghamshire. This included an increase in the capacity of the central DoLS team from 6.8 FTE (full-time equivalent) to 20 permanent and 4 temporary FTE Best Interests Assessors (BIAs) and an increase from 5 FTE to 8 FTE Business Support posts to manage the additional administration of referrals and assessments. A progress report on implementation was presented to ASCH Committee on 11<sup>th</sup> January 2016.
5. Nationally Best Interests Assessors (BIAs) are in high demand and short supply. However, the team has now successfully recruited 16.5 FTE permanent BIA staff with 7.5 FTE BIA vacancies remaining. A rolling advert is on the Nottinghamshire County Council

website to attract applications for the remaining posts and agency cover is being sought whilst any vacant posts are recruited to.

6. A successful arrangement has been put in place with the Council's staffing agency, Reed. In addition to any suitably qualified full time staff that are available to work within the team, Reed has identified a number of staff who were able to offer part time hours and be paid on a per assessment basis. The current average number of assessments completed in this way by Reed BIAs is 21 per week.
7. 11 staff successfully completed their BIA training in June 2015, five more are due to complete this in May 2016 with eight planned to undertake the training later in 2016. The aim is to train 16 candidates per annum through the University of Birmingham and Nottingham Trent University. Work is being undertaken with the operational teams to develop more flexible ways to attract more of these newly trained BIA staff to work in the central DoLS service. This will maintain a balance of sufficient experienced staff in the Districts. An example is pro-actively promoting the options of part-time work in the DoLS team, alongside part-time work in the District Teams.
8. The predicted significant upward trend in DoLS referrals in Nottinghamshire over the previous 18 months has proved to be accurate in line with the Council's predicted projection. The projected numbers of DoLS referrals from April 2015 to February 2016 has been accurate, with 2,542 received, against a predicted 2,557 to date.
9. On 25<sup>th</sup> February 2016 Full Council approved the budget which included an additional recurrent £2m to meet the pressures on the DoLS service. This brings the total budget to £2.809m. A further one-off £1m is held in reserves.
10. Between 2<sup>nd</sup> and 4<sup>th</sup> March 2016, a team visited the Council to undertake a Peer Review. The team was led by the Director of People and Deputy Chief Executive of Rutland County Council. As well as providing some overall peer review of the direction of adult social care in Nottinghamshire, they were asked to look in more detail at two areas, one of which was the DoLS service. The key line of enquiry was:  
  
*'In June 2015, the Council developed a corporate strategy and project plan to address the increasing demand for DoLS assessments. Do we have the strategy, approach and capacity in place to do this efficiently and effectively, and to ensure that arrangements are in line with meeting legal requirements?'*
11. The Council will receive a formal Peer Review report. Verbal feedback at the end of the three days was that the Council had taken the correct actions to address increasing demand for DoLS. Feedback shows a strong ethical basis and that the Council is at the vanguard of local authorities for its use of data. Now that additional resources have been agreed, the Peer Review advises the Council to consider how this can be used in order to prioritise resources and time spent working with people who are most likely to benefit, as well as manage risks to the Council.
12. The review team also felt that Nottinghamshire's engagement in regional and national fora was positive. East Midlands DoLS leads are meeting to explore areas where there may be a benefit from collaborating across authorities, for example, training or agency contracts.

13. Nottinghamshire County Council is also engaging in an Association of Directors of Adult Social Services (ADASS) led piece of work to assess other options to streamline the assessment process in some situations, for example, using information recently gathered for other assessments/reviews.
14. The above work is in its early stages and this has informed the staffing establishment proposed in this report to utilise the additional £2m resources. A revised strategy and plan will also be developed to get the best outcomes for vulnerable adults in Nottinghamshire, whilst minimising exposure to legal and reputational risks to the Council. The plan will be based on:
  - risk assessment to identify which service users are most likely to benefit from an assessment
  - based on the risk assessment, the development of a targeted, stratified, proportionate method of response
  - this methodology will include assessment of the potential level of risks of not completing the assessment to both the individual and the Council arising from the context of different situations
15. In addition to effectively managing the capacity of the DoLS service, preventative work and process reviews will continue to be steered by the Strategic Development Manager and implemented by the Operational Development Officer. This will include the following:
  - the DoLS preventative work will continue to identify opportunities to educate managing authorities in order to avoid inappropriate referrals (currently approx. 8% of total referrals)
  - implementation of a phase 2 Lean Plus review to continue to streamline all DoLS processes
  - implementation of phase 2 of the DoLS IT project which will allow wider stakeholders to submit DoLS forms through the NCC website.

### **Establishment of additional DoLS posts**

16. The following additional permanent staffing complement will enable assessment capacity to be maximised, whilst also having the resources to proportionately increase all the other elements of DoLS, such as Mental Health Assessments:
  - 1 FTE Operational Development Officer
  - 1 FTE Team Manager (Band D)
  - 4 FTE Community Care Officers (Grade 5)
  - 14 FTE Social Workers/Best Interest Assessors (Band B)
  - 2 FTE Advanced Social Work Practitioner (Band C)
  - 1 FTE Business Support Administrator (Grade 5)
  - 2 FTE Business Support Administrators (Grade 3).

The Community Care Officer posts will enable the work on Community DoLS to be scoped and support the work that needs to be progressed.

17. The posts are required on a permanent basis because of the projected demand based on the calculations of the total potential DoLS population, and demographic predictions show that this will not decrease. The Law Commission is undertaking a review of the current DoLS legislation and framework with a view to introducing a less complex system but this will not be in place before 2017, and it is very clear that the Supreme Court judgment will continue to require a significant ongoing resource to deal with the level of demand.

### Other Options Considered

18. Various staffing complements have been considered. The service will grow incrementally and proportionally. The proposed establishment set out in this report represents best use of resources to achieve maximum outputs. Officers will continue to make local, regional and national links to identify future cost effective options.

### Reason/s for Recommendation/s

19. Any future options will continue to require high numbers of assessors which this staffing model offers. Numbers of social work, senior practitioner and administrative staffing requested are stated as a maximum, which gives flexibility to recruit in proportion to the resources required due to the numbers of assessments being completed. Due to high demand for BIA trained social workers it will not be possible to recruit permanently to all these posts at the beginning of the year and a range of options to attract staff into the posts are being considered, alongside use of agency staff.

### Statutory and Policy Implications

20. This report has been compiled after consideration of implications in respect of crime and disorder, finance, human resources, human rights, the NHS Constitution (public health services), the public sector equality duty, safeguarding of children and adults at risk, service users, sustainability and the environment and ways of working and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

### Financial Implications

21. Adding the existing establishment to those set out at **paragraph 16** above, the total establishment and cost of permanent staffing for the DoLS service from April 2016 will be:

| <b>Permanent Staffing Resource</b>                   | <b>Annual Cost</b> |
|--|--------------------|
| 1 FTE Operational Development Officer                | £37,127            |
| 2 FTE Team Managers                                  | £103,947           |
| Up to 29 FTE permanent Social Workers/BIA's (Band B) | £1,238,371         |

| <b>Permanent Staffing Resource</b>                          | <b>Annual Cost</b> |
|---|--------------------|
| Up to 7 FTE Advanced Social Work Practitioner BIAS (Band C) | £339,789           |
| Up to 7 FTE Business Support Admin staff (Grade 3)          | £153,607           |
| 1 FTE Business Support Officer (Grade 5)                    | £30,607            |
| 4 FTE Community Care Officers                               | £114,733           |
| <b>Total</b>  | <b>£2,018,181</b>  |

### **Total Costs of the DoLS Service**

22. The total recurrent DoLS budget from 2016/17 is £2,809,348. In addition to staffing costs, the rest of the budget is required to fund Mental Health Assessments, Advocacy (Independent Mental Health Capacity Advocates and Paid Representatives), legal fees and running costs of the team.
23. Temporary funding from departmental reserves also funds up to March 2016:
  - 3 FTE temporary Business Support Administrators
24. Approval is sought to extend these posts up to 31<sup>st</sup> March 2017, using allocated departmental reserves of £65,832. Additional administrative resources are currently required, however, ongoing work to streamline processes and utilise electronic methods aims to reduce this requirement in the long-term.
25. The one-off £1m reserves approved in February 2016 as part of the budget will be used for additional temporary agency and Mental Health Assessor capacity to support the management of waiting times.

### **Human Resources Implications**

26. The Operational Development Officer post will require job evaluation. Costs are calculated at Band A for the purpose of this report.

## **RECOMMENDATIONS**

That the Committee:

- 1) notes the progress with actions being taken to respond to the increasing number of referrals for Best Interest Assessments (BIAs) under Deprivation of Liberty Safeguards (DoLS).
- 2) approves the permanent establishment of up to a maximum of the following posts:
  - 1 FTE Team Manager (Band D)

- 4 FTE Community Care Officers (Grade 5)
  - 14 FTE Social Workers/Best Interest Assessors (BIAs) (Band B)
  - 2 FTE Advanced Social Work Practitioner (Band C)
- All the above posts to be allocated authorised car user status.

- 1 FTE Operational Development Officer
- 1 FTE Business Support Administrator (Grade 5)
- 2 FTE Business Support Administrators (Grade 3)

3) approves the extension of the following temporary posts by a further 12 months:

- 3 FTE Business Support Administrators (Grade 3).

**Sue Batty**  
**Service Director, Mid Nottinghamshire**

**For any enquiries about this report please contact:**

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### **Constitutional Comments (LM 29/03/16)**

27. The recommendations in the report fall within the terms of Reference of the Adult Social Care and Health Committee.

### **Financial Comments (KAS 29/03/16)**

28. The financial implications are contained within paragraphs 22-25 of the report.

### **Background Papers and Published Documents**

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

Deprivation of Liberty Safeguards – report to Adult Social Care & Health Committee on 1 December 2014

Deprivation of Liberty Safeguards – report to Adult Social Care & Health Committee on 1 June 2015

Adult Social Care and Health – Overview of Current Developments - report to Adult Social Care & Health Committee on 11<sup>th</sup> January 2016

### **Electoral Division(s) and Member(s) Affected**

All.

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