

Commissioner MCA and DoLS training checklist**Version 1.7****05/02/2016****1. Purpose**

The purpose of this document is to outline the NHS commissioner Mental Capacity Act (MCA) and Deprivation of Liberty Safeguards (DoLS) training content.

2. Audience

The audience for this document is the London NHS Commissioner MCA Steering Board.

3. Background

An objective of the London NHS Commissioner MCA Steering Board is to support NHS commissioners to implement MCA assurance and compliance. During the September 2015 board meeting, interviews with commissioners and a survey NHS commissioner MCA leads identified a number of tools to support them to gain MCA assurance. One of the document outputs identified was a commissioner training checklist. The commissioner training checklist is based on the [NHS England MCA guidance document for commissioners](#).

4. Training levels overview

There are three different levels of training for different CCG employees:

- Level 1 training: for all CCG employees
- Level 2 training: for all CCG/CSU/NHS England (NHSE) commissioners involved in contracting and quality
- Level 3 training: for CCG/NHSE MCA leads

The commissioner MCA training checklist outlines the delivery formats and topics to be covered.

5. Delivery formats

MCA training should be delivered as follows:

- Level 1 training: e-learning¹
- Level 2 training: e-learning or face-to-face (led by CCG/NHSE MCA lead or joint training with the LA)
- Level 3 training: face-to-face coaching/updates (via NHS England MCA/DoLS forum and external MCA courses)

¹ Suggested e-learning options: <http://www.scie.org.uk/mca-directory/trainingcourses.asp>

6. Frequency

CCG employees should receive mandatory MCA training every three years (in line with the organisation’s MCA policy), with regular updates in addition to formal training to keep up with significant changes in the MCA/DoLS landscape and case law². All staff should receive Level 1 MCA awareness training as part of their induction. Further level(s) of MCA training should be accessed within 12 months of recruitment.

7. Level 1 training checklist – Awareness of the MCA and DoLS

Level 1 training covers the following aspects of the MCA and DoLS:

<input type="checkbox"/>	Importance of MCA and who it affects
<input type="checkbox"/>	Five statutory principles of the MCA to include a basic awareness of: <ul style="list-style-type: none"> • Best interest checklist • Recording actions (evidence) • Supported decision making • IMCAs (Independent Mental Capacity Advocates) • Advocacy • Disputes
<input type="checkbox"/>	DoLS key messages and definition <ul style="list-style-type: none"> <input type="checkbox"/> What is a DoL (Acid test, practical examples of restraints and restrictions) <input type="checkbox"/> Authorisation process (DoLS and Judicial DoL)
<input type="checkbox"/>	Criminal offence - ill treatment or wilful neglect of a person lacking capacity
<input type="checkbox"/>	Involvement rights of family and close friends

8. Level 2 training checklist - The MCA and the contracting process: systems in place for monitoring MCA/DoLS

Level 2 training covers the following aspects of the MCA and DoLS:

<input type="checkbox"/>	MCA in practice
<input type="checkbox"/>	DoLS in practice
<input type="checkbox"/>	Examples how the MCA impacts the role of the professional group being trained
<input type="checkbox"/>	Roles and responsibilities of commissioners and provider staff in informing decisions
<input type="checkbox"/>	IMCA role and responsibilities
<input type="checkbox"/>	Court of Protection and the role of deputies
<input type="checkbox"/>	Updates on case law ²

² Commissioners are also responsible for updating themselves on significant case law as it develops.

Level 2 training should also run through examples of how commissioners can collect evidence of MCA compliance through the contract monitoring process, using section 8 of the “Commissioner MCA and DoLS responsibilities checklist” as reference.

9. Level 3 training checklist – MCA and DoLS training for MCA leads

Level 3 training covers the following aspects of the MCA and DoLS:

<input type="checkbox"/>	<p>Examples of the MCA/CHC leads’:</p> <ul style="list-style-type: none"> • MCA quality assurance responsibilities • Leadership role for supporting others with MCA decisions
<input type="checkbox"/>	<p>Difficult cases/scenarios³ and case law updates (case examples)</p> <ul style="list-style-type: none"> • Interplay between MCA and DoLS • Disputed cases (Court of Protection) • Mediation as a tool for resolving disputes in best interests decisions • Safeguarding Adult Reviews and lessons learnt
<input type="checkbox"/>	<p>The remit of the Court of Protection</p> <ul style="list-style-type: none"> • When to use Court of Protection vs. the inherent jurisdiction of the High Court • The relationship between public law & judicial review
<input type="checkbox"/>	<p>The interface with the Mental Health Act (MHA) and reference to the MHA code of practice⁴</p>
<input type="checkbox"/>	<p>The interface with Safeguarding</p>
<input type="checkbox"/>	<p>End of life guidance (e.g. DNACPR), working with family & friends, use of IMCAs in cases where there are conflicting views</p>
<input type="checkbox"/>	<p>Research involving those who lack capacity</p>

³ See Buckingham New University’s learning and improvement framework for examples.

⁴ For example sections on ‘consent to treatment’ and capacity as well as sections 135&136 and role of police.