

Provider MCA and DoLS training quality standards checklist

Version 1.0

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1. Purpose

The purpose of this document is to highlight the quality standards expected of Mental Capacity Act (MCA) and Deprivation of Liberty Safeguards (DoLS) training by NHS healthcare providers.

2. Audience

The audience of this document are members of the MCA Steering Board, MCA commissioners, external organisations involved in monitoring healthcare quality, and NHS healthcare providers.

3. Background

NHS England London Region is working to equip London commissioners with tools and understanding to ensure MCA compliance. An MCA in London NHS Commissioning Steering Board has consequently been set up to identify what support MCA commissioning leads require, with three meetings taking place between September 2015 and March 2016.

A number of issues regarding provider MCA training were identified during Steering Board meetings and interviews with commissioners and MCA experts. One of the support requests was for clear definitions on what is required for good practice provider MCA training.

4. Training levels overview

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

- Level 1 training: all provider staff who have contact with service users¹
- Level 2 training: all registered clinicians²
- Level 3 training: MCA leads, mental health professionals and appropriate senior members of staff

¹ Administrative staff (ward clerks), ancillary staff (cleaners, caterers) or volunteers working in a healthcare setting should have a general understanding of the MCA to inform interactions with service users. It is also good practice to open up e-learning and basic awareness training sessions to family carers.

² Staff who are expected to undertake a mental capacity assessment.

The Provider MCA and DoLS training quality standards checklist outlines the delivery formats and topics to be covered.

5. Delivery formats

All levels of MCA training should be delivered as follows:

- Employees are trained in a way that is varied and appropriate for individual professional groups
- Employees completing level 2 and 3 training should have completed level 1 and 2 training respectively³
- Joint training with the LA is encouraged where appropriate

Specific levels of MCA training should be delivered as follows:

- Level 1 training: E-learning modules⁴
- Level 2/3 training: Face-to-face sessions
 - MCA training is led by professionals who are experts in the MCA and have a good understanding of MCA in practice⁵
 - Training is largely practical with a focus on how the MCA relates to the individual professional group's everyday role (e.g. role play, walkabouts, case studies)

Organisations should report numbers trained and quality of training as outlined in their contract.

6. Frequency

Employees should receive MCA training as outlined below:

- Mandatory MCA training should take place every three years in line with the organisation's MCA policy and training needs analysis
- The MCA training package should be updated annually to reflect the changing MCA/DoLS landscape and case law
- To supplement mandatory training, providers should have a mechanism in place to promptly update relevant staff on significant changes in the MCA/DoLS landscape/case law⁶
- Level 1 MCA training should be given as part of an employee's induction when they join the organisation.

³ Different levels of MCA training could be combined within the same training session as the organisation sees fit.

⁴ Suggested e-learning options: <http://www.scie.org.uk/mca-directory/trainingcourses.asp>. Provide additional face to face training where required.

⁵ Involving people who use services and family carers as trainers can provide a very powerful training experience.

⁶ Employees are responsible for updating themselves on significant case law as it develops.

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 the 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"> <input type="checkbox"/> Best interest checklist <input type="checkbox"/> Recording actions (evidence) <input type="checkbox"/> Supported decision making <input type="checkbox"/> IMCAs <input type="checkbox"/> Advocacy <input type="checkbox"/> Disputes
<input type="checkbox"/>	Definition of the Deprivation of Liberty Safeguards (DoLS) <ul style="list-style-type: none"> <input type="checkbox"/> What is a DoLS (acid test, practical examples of restraints and restrictions)
<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 – MCA and DoLS in practice

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

<input type="checkbox"/>	Practical examples how the MCA impacts the role of the professional group being trained <ul style="list-style-type: none"> <input type="checkbox"/> How to assess mental capacity (two stage test, dealing with fluctuating capacity) <input type="checkbox"/> Supporting people to make decisions <input type="checkbox"/> How to make a decision in a person’s best interests and who can make decisions <input type="checkbox"/> Record keeping <input type="checkbox"/> Restraint indicators <input type="checkbox"/> Roles and responsibilities of provider staff and commissioners in informing decisions
<input type="checkbox"/>	The roles, powers and bodies supporting the MCA <ul style="list-style-type: none"> <input type="checkbox"/> Lasting Powers of Attorney <input type="checkbox"/> Court of Protection and deputies <input type="checkbox"/> The Office of the Public Guardian <input type="checkbox"/> Independent mental capacity advocate <input type="checkbox"/> Advanced decisions/advanced care plans
<input type="checkbox"/>	Deprivation of Liberty Safeguards (DoLS) <ul style="list-style-type: none"> <input type="checkbox"/> Practical examples of when DoLS cannot be used

<input type="checkbox"/>	<input type="checkbox"/> Authorisation process (DoLS and Judicial DoL) <input type="checkbox"/> Updates – Law commission consultation/report
<input type="checkbox"/>	The interface between MCA and DoLS (case examples)
<input type="checkbox"/>	The interface with the Mental Health Act (MHA) and reference to the MHA code of practice ⁷
<input type="checkbox"/>	The interface with the Safeguarding
<input type="checkbox"/>	End of life guidance (e.g. Do not attempt CPR forms), working with family & friends, use of IMCAs in cases where there are conflicting views
<input type="checkbox"/>	Updates on case law
<input type="checkbox"/>	Available resources for professional group being trained <ul style="list-style-type: none"> • MCA code of practice • DoLS code of practice • MHA code of practice • MCA guidance/tools⁸ • Linking MCA principles with the 6 Cs: https://www.england.nhs.uk/6cs/wp-content/uploads/sites/25/2015/06/mental-capacity-act-6cs.pdf • SCIE website - http://www.scie.org.uk/mca-directory/keygovernmentdocuments.asp

9. Level 3 training checklist – Advanced MCA and DoLS training

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

<input type="checkbox"/>	Practical examples showing how the MCA impacts the role of the professional group being trained <ul style="list-style-type: none"> <input type="checkbox"/> MCA quality assurance responsibilities <input type="checkbox"/> Leadership role for supporting others with MCA decisions <input type="checkbox"/> Mediation as a tool for resolving disputes in best interests decisions <input type="checkbox"/> Safeguarding Adult Reviews and lessons learnt
<input type="checkbox"/>	Difficult cases/scenarios and case law updates <ul style="list-style-type: none"> <input type="checkbox"/> Interplay between MCA and DoLS <input type="checkbox"/> Disputed cases (Court of Protection)
<input type="checkbox"/>	The remit of the Court of Protection <ul style="list-style-type: none"> <input type="checkbox"/> When to use Court of Protection vs. the inherent jurisdiction of the High Court

⁷ For example, sections on ‘consent to treatment’ and capacity as well as sections 135&136 and role of police.

⁸ Clear, modular and easy to hand over (e.g. NHS cue cards that can be clipped on to uniform); recommended MCA apps should be encouraged for staff who have access to smart phones (e.g. <http://www.nescn.nhs.uk/common-themes/deciding-right/>).

<input type="checkbox"/>	The relationship between public law & judicial review
<input type="checkbox"/>	Inclusion of the MCA in all relevant policies and pathways ⁹
<input type="checkbox"/>	Research involving those who lack capacity

⁹ For example consent, restraint, transition for young people, dementia, end of life care processes/pathways.