

## **TO THE CHAIR AND MEMBERS OF THE AUDIT COMMITTEE**

### **DEPRIVATION OF LIBERTY SAFEGUARDS (DOLS) INTERIM AUDIT REPORT**

#### **EXECUTIVE SUMMARY**

1. This report is an interim report into significant weaknesses found by Internal Audit in the Council's processes for managing and monitoring the carrying out of Deprivation of Liberty Safeguards (DoLS) assessments by the Council. It is presented to the Audit Committee at this point in view of reference to the matter in the Council's Annual Governance Statement 2016/17, which the Audit Committee is responsible for approving. **It should be noted that there were no safeguarding issues found as part of the review; the clients in question were receiving the care that they needed.** The review, however, identified that the operational management of the DoLS process was poor and it was supported by systems that were heavily manual and not fit for purpose.
2. The DoLS Team is a relatively small service within the Directorate of Adults, Health and Wellbeing Directorate. It deals with the assessment of people who lack mental capacity and who need to be placed and detained in care homes, respite care or hospitals for their treatment or care in order to protect them from harm. Essentially, if someone loses mental capacity and becomes unable to consent to care or treatment, it may be in the individual's best interest for someone to make a decision for them about their care and where they should receive it (the most common example being the placement of someone in a care home).
3. Deprivation of Liberty Safeguard procedures are provided under the Mental Capacity Act 2005 and are there to ensure that no one is detained when it is not in their best interests and to prevent arbitrary detention where other possible alternatives have not been considered.
4. The DoLS Team receives referrals from care providers to undertake / arrange independent DoLS assessments for individuals. Each assessment is made of 6 individual elements that are completed by 2 different assessors:
  - one is usually a medical professional who undertakes the mental health elements of the assessment, and
  - the other is a 'best interest assessor', often a social care professional who has completed extra training in order to be able to undertake the assessments.

5. All mental health assessments are outsourced to appropriate medical professionals. Best interest assessments are done by a combination of Council staff and external assessors. Best interest assessments (this is the part that can be done internally) take 6-10 hours to complete. A Supreme Court Decision in 2014 increased dramatically the number of assessments required to be carried out by local authorities. The Council is now receiving requests on average for 120 to 130 assessments per month.
6. Issues within the DoLS Team were uncovered when a proactive data analytics exercise by Internal Audit found that payments to employees for undertaking best interest assessments were, unusually, made through the Accounts Payable system (creditors). After this work and some matters raised by the Accounts Payable Team in the Finance and Corporate Services Directorate, a full audit review was instigated. The report attached at **Appendix 1** summarises the issues uncovered and progress made to resolve the issues found.
7. **Headline key issues identified were that:**
  - The return of assessments distributed to assessors was not routinely monitored or outstanding assessments actively chased up when overdue;
  - No performance information was available routinely to monitor the service, with significant amounts of manual input required to determine the level of outstanding cases at any one point in time;
  - The inappropriate payment of employees undertaking best interest assessments through the Accounts Payable (creditors) system rather than via payroll;
  - Little or no consideration of the working time directive when allocating best interest assessments to employees to do in their own time on top of their existing day job;
  - In one case in particular the allocation of a volume of assessments that was significantly in excess of what could reasonably be achieved within the set deadlines;
  - In some cases, payments were made in advance of the work (assessments) being completed, in contravention of the Council's Financial Procedure Rules, this also leading to overpayments being made for assessments that were never completed;
  - In many other cases payments were made at the point of receiving assessments but before the assessments had been quality checked, i.e. essentially before it was checked that the assessments were satisfactory, because of a significant backlog that existed;

- There was heavy and inappropriate reliance on spreadsheets to record the Team’s activity and assessments;
  - Linked to the above point, there was poor data quality, with numerous examples of missing information and erroneous data including missing assessment dates, missing and incorrect information on who the assessment was completed by / allocated to and even in some case client names.
8. Significant backlogs were identified within the process throughout, with delays in the completion, review and eventual signoff of the assessments. Nationally however, such backlogs are not uncommon. The backlog of current assessments as at 6<sup>th</sup> of July was as follows:

Total number of required assessments not currently allocated to assessors	629
Total number of allocated assessments still outstanding (not yet returned by the assessors)	171
Total number of assessments awaiting sign off	837
Total number of assessments outstanding	<hr style="border: 0.5px solid black;"/> <u>1637</u>

9. The number of assessments awaiting sign-off included above (837 cases) includes 511 cases where the assessments were obsolete. Essentially these were cases where the individual is now deceased, has been discharged from hospital or respite care or has moved and a new / different assessment is now required. Further details on each of these issues can be found in the report attached at **Appendix A**.
10. There have been many changes in service management which have not helped to ensure there was appropriate control and oversight of the activities of the DoLS Team. Senior management responsible for the service when these issues first arose have since left the organisation. Current management are now taking steps to remedy the problems identified.
11. It should be noted that actions remain in progress at the time of this report but that substantial effort has been put into addressing the situation not least through the replacement of the entire process with a more suitable one within the Care First system

**EXEMPT REPORT**

12. This is not an exempt report.

## RECOMMENDATIONS

13. The Audit Committee is asked to note the audit review and the actions taken to date to address the issue by the Adults, Health and Wellbeing Directorate.

## WHAT DOES THIS MEAN FOR THE CITIZENS OF DONCASTER?

14. Adult safeguarding is a fundamental part of the Council's remit and the Council needs to ensure that it complies with DoLS requirements to ensure that the liberties and rights of those needing care are not infringed. Ensuring that the service is fit for purpose and operating effectively is critical to supporting adult safeguarding and ensuring that in providing this service, the Council complies with the Care Act and safeguards its most vulnerable citizens.

## BACKGROUND

15. This report provides the Audit Committee with information on the outcomes from and progress of the DoLS review and associated improvements and allows the Committee to discharge its responsibility for monitoring the Council's exposure to risks.

## OPTIONS CONSIDERED AND REASON FOR RECOMMENDED OPTION

16. Not applicable

## IMPACT ON THE COUNCIL'S KEY OUTCOMES

	Outcomes	Implications
	<p>All people in Doncaster benefit from a thriving and resilient economy.</p> <ul style="list-style-type: none"><li>• <i>Mayoral Priority: Creating Jobs and Housing</i></li><li>• <i>Mayoral Priority: Be a strong voice for our veterans</i></li><li>• <i>Mayoral Priority: Protecting Doncaster's vital services</i></li></ul>	None
	<p>People live safe, healthy, active and independent lives.</p> <ul style="list-style-type: none"><li>• <i>Mayoral Priority: Safeguarding our Communities</i></li><li>• <i>Mayoral Priority: Bringing down the cost of living</i></li></ul>	The DoLS function is part of the Adults, Health and Wellbeing directorate who lead on adult safeguarding. The purpose of the DoLS function is to safeguard the liberties and rights of vulnerable individuals.

		Ensuring that the service is fit for purpose and operating effectively is key to ensuring that the Council complies with the Care Act and safeguards its most vulnerable citizens.
	<p>People in Doncaster benefit from a high quality built and natural environment.</p> <ul style="list-style-type: none"> <li>• <i>Mayoral Priority: Creating Jobs and Housing</i></li> <li>• <i>Mayoral Priority: Safeguarding our Communities</i></li> <li>• <i>Mayoral Priority: Bringing down the cost of living</i></li> </ul>	None
	<p>All families thrive.</p> <ul style="list-style-type: none"> <li>• <i>Mayoral Priority: Protecting Doncaster's vital services</i></li> </ul>	None
	<p>Council services are modern and value for money.</p>	<p>Initial analysis of the DoLS function was that it is neither modern nor value for money with substantial weaknesses and heavily manual process.</p> <p>Work is underway to ensure the service is modern and fit for purpose.</p>
	<p>Working with our partners we will provide strong leadership and governance.</p>	None

## RISKS & ASSUMPTIONS

17. Failure to address governance and operational and management weaknesses within the DoLS function exposes the Council to the following risks:-

- Potential reputational damage to the Council as a result of a failure to undertake assessments within the required timescales;
- Potential legal litigation as a result of any failure to / delay in the assessment of an individual's circumstances should it be determined that an individual had been wrongly detained in a care environment;
- Potential financial loss as a result a failure to control payments being made to mental health and best interest assessors;
- Potential breach of the law.

## **LEGAL IMPLICATIONS**

18. Failure to implement a re-engineered process within DoLS potentially causes a detrimental impact upon the reputation and business affairs of the Council and could possibly result in litigation as a result of a failure to / delay in the assessment of an individual's circumstances should it be determined that an individual has been wrongly detained in a care environment.

## **FINANCIAL IMPLICATIONS**

19. Failure to implement a re-engineered process within DoLS service could lead to further losses as a result of poorly designed financial processes and a lack of robust monitoring and management of the payment to individuals for assessments undertaken.

## **HUMAN RESOURCE IMPLICATIONS**

20. Failure to improve the DoLS function and its management of the assessment process could breach / continue to breach the Working Time Directive and have subsequent implications on the health and welfare of employees undertaking assessments in their own time.

Future payments of assessments via the HR Portal will be monitored by HR and any deviation from the agreed process of payment will be robustly challenged.

## **TECHNOLOGY IMPLICATIONS**

21. A root cause analysis of the issues within DoLS shows that whilst there were many contributing factors causing the problems, the lack of appropriate systems and the heavy reliance on manual processes and spreadsheets was key to the problems within the process. Poor systems and poor data quality with little useable performance information was a driving factor behind the situation uncovered. This is being addressed and a new pathway has been constructed within the Care First system to move the assessments to a stable and monitorable system going forwards with substantial amounts of effort being put into cleaning and migrating the data to the new system.

## **EQUALITY IMPLICATIONS**

22. The DoLS function serves vulnerable adults and their care providers and these adults normally have protected characteristics, specifically they may be older people, people with physical and mental health issues and those with learning disabilities. Due to the nature of the clients the DoLS function is there to safeguard, these groups are likely to be disproportionately affected by the issues identified in this report.

## **CONSULTATION**

23. There has been consultation with managers at the outset, throughout and at the conclusion of this review in order to ensure that the work undertaken and findings are relevant to the risks identified and are accurate.

## **BACKGROUND PAPERS**

24. Appendix 1 (Deprivation of Liberty Safeguards – Interim Audit Report)
25. Mental Health Act 2005

## **REPORT AUTHOR & CONTRIBUTORS**

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## **APPENDICES**

**Appendix 1 – Deprivation of Liberty Safeguards (DoLS) Interim Audit Report**

**Steve Mawson  
Chief Financial Officer  
& Assistant Director of Finance**