

**People Services Scrutiny Committee - 28<sup>th</sup> January 2016**

**Report of the Strategic Director People**

**Deprivation of Liberty Safeguards (DoLS)**

**Purpose of Report**

1. This report is to appraise the Scrutiny Committee about changes to Adult Safeguarding since the implementation of the Supreme Court Judgement in 2014 and the Care Act 2015 and consider the impact on adult safeguarding in Dudley.

**Background**

Deprivation of Liberty Safeguards (DoLS)

2. The Supreme Court ruling in May 2014 extended the remit of people in Residential, Nursing and Hospital beds who may be eligible for DoLS. It also introduced Community DoLS, whereby settings where a person is deprived of their liberty in their best interests to provide their care and support, but are in the community such as supported living arrangements, adult placements and domestic settings have to request a deprivation of liberty application through the Court of Protection.
3. It was expected nationally that this judgment would have a huge impact on the level of Deprivation of Liberty referrals, as care homes and hospitals needed to apply different thresholds to decide on whether they are depriving a person of their liberty.
4. In anticipation of this increase, , a further five staff were trained as Best Interest Assessors by June 2015 to complete the required assessments, alongside their normal workload and a further three staff are undertaking training in 2016. The department has also seconded a full time Best Interest Assessor until April 2016.
5. In addition the Department of Health provided local authorities with a grant towards training for staff and to provide support for the complex administrative process- two additional part time administrative staff was appointed within Dudley for this purpose.
6. From April 2014 – March 2015 615 applications were received within Dudley. From April 2015 to December 2015 456 applications have been received already. This compares with a total number of 142 for 2013-2014.
7. In September 2015 a comparison was made with other local authorities for April – June 2015 regarding the number of applications received:

|          |       |
|----------|-------|
| Solihull | - 244 |
| Stoke    | - 261 |
| Walsall  | - 228 |
| Dudley   | - 219 |
| Sandwell | - 221 |

8. Authorities' report significant back-log, as the region agreed that priorities should be given to those previously subject to a Deprivation and those in hospital so as not to delay the hospital discharge process. Dudley has completed 45% of their total assessments to date. This performance is comparable to other Local Authorities in the West Midlands and at a national level.
9. ADASS (the Association of Directors of Adult Social Services) have fed concerns about the significant rise in referrals back to the Department of Health. A new scheme for Deprivation of Liberty safeguards is being consulted upon for implementation in 2017.
10. As Community DOLS requires a different process via the Court of Protection. Social Care staff have been trained in the process and local procedures developed for implementation from January 2016. Additional staff have been appointed on a years contract to support the process. There are 54 Community DOLS awaiting assessment within the division.

#### Adult Safeguarding

11. In quarters 3 & 4 (2014 -15) 885 cases of safeguard concern were progressed to the local authority. In quarter 1 & 2 (2015-16) 986 cases were progressed to the local authority. Of those 986 - 409 were progressed for a safeguard investigation – (now called an Enquiry under the Care Act Legislation.) The others were signposted in other ways which included receipt of a care package; other services or for partners to assist with support.
12. Neglect is the highest type of abuse experienced at 44.3% of the total abuse recorded. There has been a substantial increase in the number of enquiries recorded as self neglect from 10 in the previous two quarters to 48 in these first two quarters of 2015 this is also reflected in increasing referral levels to our Adult at Risk team.
13. In response to self-neglect cases Adult Social Care created an Adult at Risk team in October 2014 as the Care Act included Self-Neglect as a category of abuse in April 2015. This has proved hugely resource intensive as people who self-neglect are historically difficult to engage. This comes at a time when local authority and partner agencies staffing resources are also under huge pressure. The remit for this team is also under pressure as Domestic Abuse was also included as a category of abuse since the Care Act implementation, and likewise people need considerable support to work through issues of Domestic Abuse.

A review of this service is currently in progress to deliver support effectively but within the resources available to the Council.

14. The Care Act also introduced a Section 42 enquiry which is the duty the local authority has to make or cause others to make safeguard enquiries. Dudley had co-operation from partner agencies, especially the CCG and Dudley group of

Hospitals NHS Foundation but support from the Police has been problematic and resulted in a report to the Board highlighting those concerns in December 2015.

15. The Care Act has also introduced non-section 42 enquires where a person has moved away from the agency/location of the abuse but others may still be subject to poor practice there. It also includes people who may have died, not from abuse, but where there was abuse alleged prior to their death. Up until December 15 two part-time staff dealt with these non- section 42 enquiries but the resources to fund these posts have now ceased and a waiting list emerging to undertake investigations of this nature.
16. The demand and pressures outlined above have been presented as a risk to the Adult Safeguard Board.  
A review of the organisational team changes will consider these pressures and agree next steps.
17. The Supreme Court Ruling of 2014 and the Care Act of April 15 have added significant pressures upon Adult Safeguarding within the Borough.
18. In 2015 three separate deaths within the Borough led to the Adult Safeguard Board commissioning investigations by an independent author. These reviews are now known as Safeguard Adult Reviews. A report of one of the deaths has completed with additional training on the Mental Capacity Act and a review of the self-neglect procedures identified. The other two await court hearings regarding the prosecution of staff working for independent service providers, where their actions are being questioned in terms of their practice around dysphasia care for both people concerned.

### **Equality Impact**

19. The Mental Capacity Act 2005 – Deprivation of Liberty Safeguards and the Care Act 2014 are consistent with the Equal Opportunities Policy of the Council.  
The Safeguard & Protect Policy and Procedures were revised in April 2015 to take account of the legal changes of the Care Act and ensure that regionally Equal Opportunities remained addressed.

### **Recommendation**

20. The People Services Scrutiny Committee is asked to recognise the increased complexities and demands placed on Adult Safeguard in 2015 and the consequent risks this brings to managing adult safeguarding concerns within the Borough. Further detail and performance information is available in the Safeguarding Adults annual report.



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**List of Background Papers**

**Performance Data and Annual Reports about Adult Safeguarding**

**<http://safeguarding.dudley.gov.uk/adult/safeguarding-adults-board/publications/>**