



<b>Paper No. SET/82/19</b>	
	<b>Tick One ✓</b>
For discussion	
For approval	
For information/noting	✓

**Date of Trust Board Meeting:** 27 November 2019

**Confidential or Public Agenda:** Public Agenda

**Agenda item:** Update on the Mental Capacity Act

### 1.0 Introduction

- The Mental Capacity Act (NI) 2016 was enacted by the Assembly in May 2016. The first Phase of the Act will come into operation in two stages - research provisions commenced on 1 October 2019 and provisions in relation to deprivation of liberty, offences and money and valuables in residential care and nursing homes will commence on 2 December 2019.
- The Act provides a statutory framework for people who lack capacity to make a decision for themselves and for those who now have capacity but wish to make preparations for a time in the future when they lack capacity. When the Act is fully commenced the Mental Health (Northern Ireland) Order 1986 (“the 1986 Order”) will be repealed for anyone over the age of 16.

### 2.0 Background information

- The Mental Capacity Act (NI) 2016 is being partially commenced and will provide a new statutory framework in relation to deprivation of liberty.
- The deprivation of liberty Regulations will cover formal assessment of capacity, appointment of nominated persons, authorisations and extensions and trust panel operations, as well as including statutory forms for use by professionals.
- The new legislation will go live on 2 December 2019. It is important to note that not all provisions in the Act are being commenced at this time.

### 3.0 Brief summary of key points contained in the paper/s

- All Health and Social Care Trusts to prepare for implementation of the new statutory requirements on 2 December 2019.
- The legal framework provided by the Act is supported by a Code of Practice which provides practical information for how the Act works. The Code supports Phase 1 of the implementation and commencement of the Act only.
- Engagement with HSCB regarding agreement with GPs in relation to medical reports for authorising deprivation of liberty.
- Trust MCA Trainers continuing to provide wide-scale training with 875 staff trained to Level 3 and 500 staff trained to Level 4a (mid-November 2019).

- Recognition of the importance for further engagement and communication with staff - to learn, query and understand how to practically apply MCA. Additional mock panels/short-term detentions sessions with medics and shared learning workshops to continue. This will assist in ensuring that local processes are implemented efficiently and in accordance with legal requirements;

#### **4.0 Recommendation/s for the Trust Board (please state if the paper/s is for information/noting or for approval by Board members)**

For Information:

- Purpose of the DOL Safeguards is to afford safeguards to people who are deprived of their liberty through short-term detentions (hospital admission). Additionally, the legislation will offer safeguards to people in long-term community placements and to organisations, services and staff who deprive people of their liberty through the support, care or treatment they provide for them;
- The challenges of implementing the DOL Safeguards across Trust services for both short-term detentions and Trust panel authorisations; and
- The preparatory work undertaken/planned to ensure the Trust meets the new statutory requirements for Phase 1 of the Act.

**Lead Director:** Don Bradley

**Designation:** Interim Director Adult Services and Prison Healthcare

**Date:** 18 November 2019

Cover Sheet for Trust Board \_June 2015