

The Importance of Robust Governance

Agencies Team

October 2019

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Assurance, Challenge and Improvement in Health and Social Care



What is Governance ?

- From the word to govern
- The way that an organisation or country is managed at the **highest level** and the systems in place for doing this:
- Within an organisation, service or agency this is known Corporate Governance
- **Corporate governance** is the system of rules, practices and processes by which a *company* is directed and controlled.
- **Corporate Governance** refers to the way in which companies are governed and to what purpose. It identifies who has power and accountability, and who makes decisions.



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Principles of Governance

- Conducting the business of the agency with integrity and fairness.
- Being transparent with regard to all operations.
- Making all the necessary disclosures and decisions.
- Complying with all regulations and standards.
- Accountability and responsibility towards the stakeholders.



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Reality of Governance

- Systems
- Roles, responsibility, accountability
- Policies and Procedures
 - Financial
 - Recruitment
 - Safeguarding
 - Staffing
 - Training

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Methodologies

- Monthly Monitoring (unannounced)
- Audits
- Records review
- Stakeholder surveys
- Analysis of audits ie missed and late calls
- Clear action plans
- Staff and service user meetings/contacts



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What Does Governance Achieve

- Good **governance** is about the processes for making and implementing decisions. ...



- Having **robust governance** structures, and ensuring these processes are implemented and practiced within an authority requires vigilance and a **continuous improvement approach** so trust is sustained

A good service provider should provide a robust governance structure to which services are monitored, reported-on and assessed



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So What?

- “Good governance leads to good management, good performance ... and, ultimately, good outcomes”
- (Sir Alan Langlands, Good Governance Standard for Public Services, 2004)



=

Service User
Satisfaction
through
positive
impact on
care delivery

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No Surprises & Get Ahead of the posse



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Questions?

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Thank you

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Monthly monitoring visits



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Good intentions



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Quality assurance ...



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What the visits should include?



- An opportunity to monitor the quality of the service being provided.
- Concentrate on aspects of the service that people using it have told them they need to improve.
- Look at how they are promoting equality and meeting the diverse needs of the people using the service.
- All the issues requiring action should be in their quality improvement plan.

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Continued ...



- Interview, a sample of service users, representatives of service users, staff and HSC professionals.
- Sample should provide a good overview of the experiences of people using and working in the agency with particular regard to their equality and diversity.
- In larger conventional agencies, more detailed interviews of a limited number of service users and their representatives should be undertaken each month (in some circumstances, these may be carried out by phone).

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Continued ...



- Inspect the environment (supported living)

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Continued ...

- Accidents/incidents and record of any complaints
- They must ensure that a system is in place to ensure that any person who is subject to restriction or deprivation of their liberty has had their legal entitlement to the provisions outlined in The Mental Capacity (Northern Ireland) Act, 2016.

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When should the visits occur?



- The visits should be conducted **at least once a month** or as agreed with RQIA

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Why are the visits needed?



- There is a **regulatory requirement** for these visits to occur
- The visit is a governance tool which can help ensure that **high standards** are being maintained & that the **quality** of the service provided is **continuously improved**

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The regulatory context ...

- The Domiciliary Care Agencies Regulations (Northern Ireland) 2007
- Regulation 23 (1) – (5) : Assessment of quality of services
- Domiciliary Care Agencies Minimum Standards (August 2011)

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RQIA Guidance and Template

- Provider guidance and template update will be available on RQIA website <https://www.rqia.org.uk/>
- Suggested format
- Adaptable - providers may wish to develop their own format for the report that fits in with other aspects of their quality monitoring



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Something we should all be doing ...



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The Inspection Year (to date) Key Findings Day Care and Domiciliary Care

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Inspections completed

- Domiciliary Care – 116
- Day Care – 68
- Nursing Agencies - 4

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Day Care What's working well

- Timely, appropriate referrals to the multidisciplinary team
- Promoting effective means of communication for service users who have difficulties with communication
- Positive behaviour support programmes
- Supporting service users who have difficulties with eating, drinking and swallowing

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What's working well(cont)

- Additional staff training
- Staff knowledge regarding human rights, positive behavior support and IDDSI Guidelines
- A number of organisations have been proactive in addressing the recruitment needs of the service.
- Registration of 15 satellite units as stand-alone day centres.

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Domiciliary Care What's going well

- Human rights approach to providing care
- Mental Capacity Act and preparation for the introduction of DoLS
- Safeguarding Position reports

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Domiciliary Care Challenges

- Recruitment
- Staff training
- Supervision/Appraisal
- Regulation 23 reports including missed/late calls and the management of these

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Enforcement

- Five different sets of enforcement so far this year in relation to domiciliary care
- Three in relation to notifying RQIA when the service becomes operational
- One FTC notices in relation to managing missed and late calls
- Three FTC to one service in relation to monitoring arrangements, recruitment and staff training – This service is now compliant

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Interesting times: moving forward

Dermot Parsons
Deputy Director Assurance

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Sector messages

The role of the regulator is sometimes challenging, sometimes supportive

- Overt use of authority - directive
- Ambiguous engagement with providers
- Perception of “missing things”
- Inconsistent and varied comment

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What we have found

- Changes to presenting issues
- Often problems recur
- “Problem homes”
- Quality of leadership/ management is key

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RQIA perspective

- Leadership/ management and care quality
- RQIA's confidence in services
 - The information we receive
 - Credible plans
 - Responding to concerns
- Potential to improve
- Validating change

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RQIA perspective

- Early intervention and partnership
- Complaints, Regulations and Standards
- Temporary management arrangements
- Impact on service users – a central point
- Large services and registration

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Traditional regulation

Command and control

- Inspectors discover information
- Focus on inputs, process checking
- “Experts” identify deficiencies
- Senior providers told what to do
- Enforcement

The “So what?” question

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Donaldson review

“There is much detailed specification of what to do, how to do it, and then extensive and detailed checking of whether it has been done ...

The alternative is a style of leadership based on inspiration, motivation and trust that those closer to the front line will make good judgments and innovate if they are encouraged to do so.”

Donaldson et al (2014) The Right Time, The Right Place (p.4)

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Other care regulators

HIQA

- “During 2018, inspections continued to indicate a direct relationship between good governance and leadership, regulatory compliance and good outcomes for people living in the centre.”

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Other care regulators

HIQA

- ... [Phelim] Quinn argues the model of regulation has shifted to one that operates based on co-operation between the facility and the regulator.
- While HIQA has the power to shut down a home, there is an emphasis on working with a provider to improve standards.

“Ageing Ireland: HIQA calls for updated regulations to safeguard elderly” Irish Times, 26 August 2019

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Other care regulators

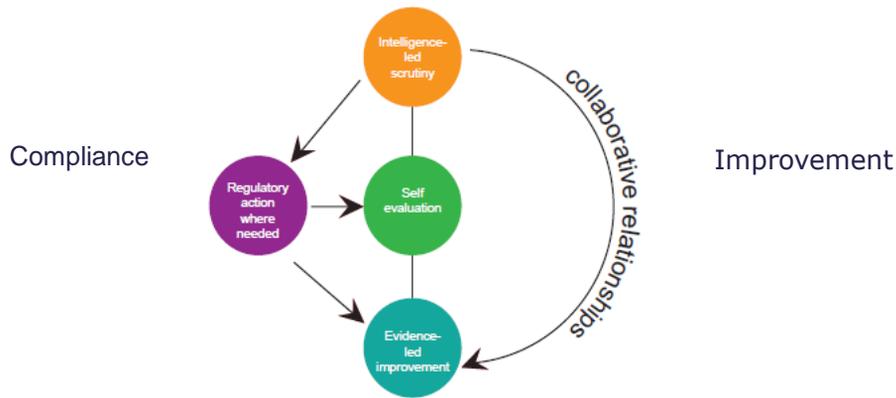
Former CE of Care Inspectorate

- “... working collaboratively with people experiencing care and their carers ... and service providers can together support better experiences and outcomes and an improved quality of life.”
- “Nothing about collaborative approaches to regulation prevents regulatory action being taken to protect people from harm or if all other means are exhausted, direct improvement.”

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Scottish model



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Scrutiny regulation model

Partnership and governance

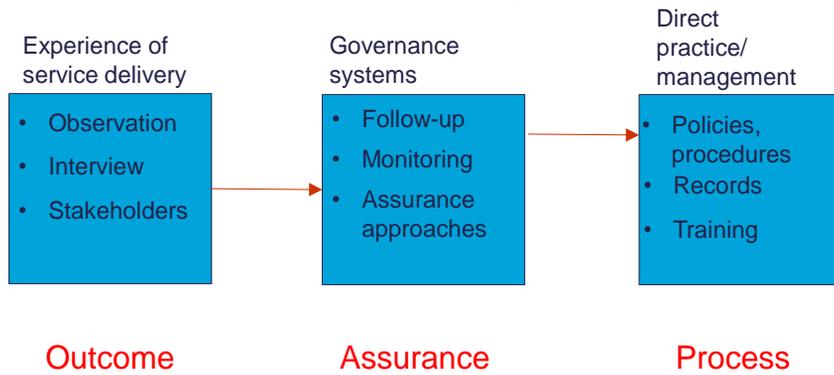
- Providers self evaluate
- Focus on outcomes/potential outcomes
- Inspectors examine experiences first
- Providers own the improvement needed
- Inspection focuses on governance
- Specialists share knowledge, when needed

Collaborative relationships?

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Service provision and regulation



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Scrutiny and compliance

- Poor outcomes → check the processes
- Flawed processes → think potential impact
- Focus on governance to secure improvement
- The capacity to change – leadership: “Well led”
- Risk of action; risk of inaction
- Developing and using sources of “evidence” – triangulation
- Using information well

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Our approach to learning

- To improve services, we need to encourage openness and honesty
- A blame culture leads to errors being concealed
- In a 'just culture' inquiries are opportunities for everyone to learn
- To reduce the chances of recurrence of harm, we will focus on discovering whether, and how, risks may be reduced and services improved
- We will learn as much from good practice as we can from poor practice
- Inappropriate systems cause more accidents than individuals' errors

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RQIA & decision-making principles

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Decisions and risk

- Many regulator decisions involve risk factors
- Public perception can be that RQIA should eliminate risk
- Good outcomes in people's lives may mean that people take risks

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“Wicked” and “tame”

- Policing decisions: eg. which approach to take in a riot
- Health and social care decisions around limited resources and priorities - QALYs
- Cost of vaccination programme for Ebola
- Regulation decisions for a “failing service”

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Risk principles benefits

- Framework to support decision-making
- Clarity for decision-makers
- Develops understanding that risks bring benefits as well as hazards
- Clarity for the public
- Supportive for RQIA and staff

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Managers and leaders

- **Managers** analyse, assess and choose solutions to known problems
- **Managers** deal with right/ wrong answers
- **Leadership** involves setting goals, principles, limits, permitting and supporting. It is creative.

Carson, D et al. (2013) "Responsibility for Public Protection and Related Risk Decision-making". Police Journal, 86: 307-320

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Three words to take away

- **Information:** what we use to understand your service; what you use to improve your service
- **Improvement:** our focus, and what we look for
- **Impact:** how the quality of care affects people using your services

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Regulation and a Human Rights Approach

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Legal Framework

European Convention on Human Rights 1953

Human Rights Act 1998

UN Principles for Older people 1999

UN convention on the Rights of persons with Disabilities 2006

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Statutory Function

As a public-sector body, RQIA have a duty to respect, protect and fulfil the rights that people have under the Human Rights Act 1998 when carrying out our functions.

In our inspections of agencies, we are committed to ensuring that the rights of people who receive services are protected, promoted and respected.

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COPNI – Home Truths 2018

The registration and inspection process must ensure that care providers comply with the legal obligations imposed on them in terms of human rights.

An important component of the registration and inspection procedures is to ensure that the human rights of people in settings where care is provided are protected and promoted.



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Core Values

A human rights
approach

EQUALS

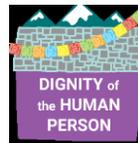
Person centred care



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The FREDA principles

Fairness
Respect
Equality
Dignity
Autonomy



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Fairness

- ask, listen and respond to the individual's views
- E.g. DoLs framework, a robust complaints process, annual care review
- **R**espect
 - How we value the individual and provide person centred care
 - E.g. maintaining privacy, CCTV, refusing treatment, access to records



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Equality

- Equal opportunities and treatment
- E.g. respect of religious / philosophical beliefs

- **Dignity**
- An approach which supports, promotes, and does not undermine, a person's self-respect
- E.g. neglect, social isolation, improper restraint

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Autonomy

- Enabling choice, freedom, independence and decision making
- E.g. Private relationships, promotion of social interaction, positive risk taking

- **NB These principles are used to inform decisions, not to determine them.**
- **Consideration of the principles is context specific – but none of the principles should be ignored**

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Human Rights Principles

Examples in practice

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Is Care Safe?

Avoiding and Preventing harm to service users from the care, treatment and support that is intended to help them

Safe and Healthy Work Practices help to ensure:

Article 2 Right to Life

Article 3 Freedom from torture and inhuman or degrading treatment

Article 5 Right to Liberty and Security

Article 14 Protection from Discrimination in respect to these rights and freedoms

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The Regulation and
Quality Improvement
Authority

Environment

Service users are supported to maintain their home .

Staff respected service users confidentiality by ensuring care records were stored securely.

Staffing

A system was in place to identify appropriate staffing levels to meet the service users needs.

A review of the staff rotas confirmed that the staffing numbers identified were provided.

Staff presented as knowledgeable and informed, regarding service users' needs. They described the value they place on ensuring that service users are supported in an individualised manner, where their preferences and wishes are taken into account.

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Risk Management

We discussed how service users are protected from abuse. The agency has a safeguarding champion to support the adherence to the safeguarding policies and procedures.

The safeguarding and protection of service users was included in the induction and annual training programme for staff.

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Is Care Effective?

The right care, at the right time, in the right place with the best outcome

Effective care helps to ensure:

Article 2 Right to Life

Article 3 Freedom from torture and inhuman or degrading treatment

Article 5 Right to Liberty and Security

Article 8 Respect for your private and family life, home and correspondence

Article 14 Protection from Discrimination in respect to these rights and freedoms



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Person centred care



Care records were individualised and holistic, including the service users life story.

There was evidence that service users were encouraged and enabled to be involved in care planning, where appropriate.

Care plans were available in easy read and pictorial format.



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Is Care Compassionate?

Service users are treated with dignity and respect and should be fully involved in decisions affecting their treatment, care and support

Compassionate care protects and promotes:

Article 5 Right to Liberty and Security

Article 6 Right to a fair trial

Article 8 Respect for your private and family life, home and correspondence

Article 9 Freedom of thought, belief and religion

Article 10 Freedom of expression

Article 11 Freedom of assembly and association

Article 12 Right to marry and start a family

Article 14 Protection from discrimination in respect of these rights and freedoms



Dignity, Independence and Choice

We observed staff seek service users verbal consent before providing support with personal care.

Staff recognised the importance of ensuring service users could talk openly with them and discuss any concerns they had.



Decision Making



Care records included an individualised decision-making profile.

Staff described how they support service users to be involved in activities of their choice.

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Is the service well led?

Effective leadership, management and governance which creates a culture focused on the needs and experience of service users in order to deliver safe, effective and compassionate care

Systems and oversight to ensure human rights incorporated into all elements of care in the agency

Statutory function

COPNI recommendations

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Communication

Service users and their relatives confirmed they knew who to speak to if they had a concern and were confident that this would be dealt with.

Relatives spoken with confirmed they were kept well informed and were consulted about their relative's care needs.

Service users views were included in the agency's annual quality review report.



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Equality

Staff had received equality and diversity training.

Staff were knowledgeable about the person centred culture and ethos in the agency.

Service users were supported in their expression of their sexual and gender identity.



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**These examples were taken
from existing inspection
reports completed from April
2019**

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Human Rights considerations are
already
embedded into the inspection process

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How can we better acknowledge and improve on this?

- Improve our knowledge and skills
- Build confidence
- Commitment
- Raise awareness among providers and service users
- Highlight good practice
- Share learning

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Mental Capacity Act (Northern Ireland) 2016

Deprivation of Liberty Standards

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Five key principles of The Mental Capacity Act (NI) 2016

5 Key Principles

No one should be treated as lacking capacity unless proven that they do

No assumptions can be made

Help and support must be provided

No assumptions can be made because of unwise decisions

All acts and decisions must be made in the person's best interests

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Human Rights Act and DOL

- To ensure that a person's human rights are protected, the Act defines DoL as having the same meaning as within **Article 5(1)** of the European Convention on Human Rights ("ECHR") - ***The Right to Liberty*** - which provides that:
- ***“Everyone has the right to liberty and security of person. No one shall be deprived of his liberty [unless he or she is of an unsound mind] and in accordance with a procedure prescribed by law.”***

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What is Deprivation of Liberty

To test if a person who lacks capacity is deprived of his or her liberty the following questions must be asked:

- is the person under continuous supervision or control? **and**,
- is the person free to leave?

It doesn't matter:

- whether the person can physically leave
- whether the person is compliant or any lack of objection
- if the place is relatively normal for the person
- what the reason or purpose for a particular placement is

a person in these circumstances is deprived of their liberty

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Restraint, Restriction and Deprivation of Liberty: Key messages

- For now, the use of restraint, remains governed under common law but legal requirements for restraint will be introduced when the MCA is fully introduced
- Restraint can take many different forms but restraint that is ongoing, planned or regular will most likely be required to be categorised as DoL
- You must be aware of the possibility that extensive or intrusive use of restraint may be a deprivation of a patient's liberty **if it meets the acid test criteria**. This is dependent on the nature of the restraint, the duration of it, its intensity, the setting in which it will take place and the level of planning before the restraint was done.
- **Seclusion** is in general regarded as a deprivation of liberty and all the additional safeguards required must be in place

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Safeguards required when considering deprivation of liberty

When a person is being deprived of their liberty safeguards must be put in place. These include that:

- A formal assessment of capacity is completed: (*Chapter 8 of Code of Practice (CoP)*)
- The nominated person is consulted (or appointed if not in place): (*Chapter 9 of CoP*)
- The prevention of serious harm condition is met (*Section 7.6 of CoP*); and
- Authorisation is applied for and granted (NB: There are 2 methods of authorisation): (*Chapters 11 and 12 of CoP*)

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What will the inspector look for from 1 December 2019?

Inspectors will review the homes progress in the following areas:

- The needs of the people to whom you provide services
- The needs of people admitted after the 1 December 2019
- Staff training
- Knowledge of staff
- Dols processes and governance of same
- Systems (access to code of practice and systems for accessing, recording, sharing, retaining forms and information in place as required under the act)
- Communication with the Trust.

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Further Information

Level 2 – E-learning (1-2 hours - online) –this training can be accessed

http://mca-learning.health-ni.gov.uk/story_html5.html

MCA code of practice

<https://www.health-ni.gov.uk/publications/draft-mcani-2016-deprivation-liberty-safeguards-code-practice-august-2019>

Money /Valuables etc

<https://www.health-ni.gov.uk/publications/draft-mcani-2016-money-valuables-and-research-code-practice-august-2019>

MCA Suite of FORMS

<https://www.health-ni.gov.uk/publications/draft-mcani-2016-forms-deprivation-liberty-august-2019>

MCA PRACTICE SCENARIOS

<https://www.health-ni.gov.uk/publications/mcani-2016-scenarios-august-2019>

