



# Mental Capacity Act

(Northern Ireland) 2016

## MCA DoLS Update – April 2024

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### 1. Trust MCA Contact Details

Belfast	<a href="mailto:MCABelfast@belfasttrust.hscni.net">MCABelfast@belfasttrust.hscni.net</a>
Northern	<a href="mailto:MCA.NHSCT@northerntrust.hscni.net">MCA.NHSCT@northerntrust.hscni.net</a>
South Eastern	<a href="mailto:MCAsetrust@setrust.hscni.net">MCAsetrust@setrust.hscni.net</a>
Southern	<a href="mailto:MCA.SHSCT@southerntrust.hscni.net">MCA.SHSCT@southerntrust.hscni.net</a>
Western	<a href="mailto:MCA.WHSCT@westerntrust.hscni.net">MCA.WHSCT@westerntrust.hscni.net</a>

### 2. Regional DoL Statistics (Inc. live updates) – (1 April 2023 to 26 April 2024)

Trust	Trust Panel (TP) DoL Applications	Extension Authorisations	Total Live TP/Extension Authorisations (at 26 April 24)	Short Term Detention Authorisations	Total Live Short Term Detentions (at 26 April 2024)
Belfast	727	619	897	504	30
Northern	474	1126	1034	292	24
South Eastern	519	839	860	247	12
Southern	207	520	414	163	15
Western	423	796	762	126	5
Total	2350	3900	3967	1332	86

### 3. Summary of Activity of the Regional DoL Statistics

Total Live TP Applications	16% increase in the number of people who have a Trust panel Authorisation in comparison to last year
Total Live Short Term Detentions	10% decrease in the number of people who have a Live STD Authorisation in comparison to last year
Trust Panel(TP) Authorisations	12% increase in the number Trust Panel Applications in comparison to last year
TP Referrals to the Attorney General (AG)	2% decrease in referrals to the AG's Office in comparison to last year
Referrals to the Review Tribunal (RT)	27% decrease in referrals to the RT in comparison to last year
Extensions	5% increase in extensions compared to last year
Extensions referred to the AG's Office	5% increase in extensions referred to the AG's Office in comparison to last year
Extensions referred on to the RT	33% decrease in extensions referred on to the RT in comparison to last year
Short Term Detentions	34% increase in Short Term Detentions in comparison to last year

### 4. Training

The Department has produced a series of animated videos to visually explain the Deprivation of Liberty Safeguards alongside a case study of a person's journey through the legislative framework. These videos outline the process of implementing the safeguards and are tools that complement MCA training provided by the Department of Health or HSC Trusts. Check these out at:

[MCA Deprivation of Liberty | Department of Health \(health-ni.gov.uk\)](https://health-ni.gov.uk)

### 5. Latest Developments

**Review of MCA Forms** –Discussions have taken place with the Permanent Secretary, Attorney General, Department Officials and Trust representatives to review the suite of forms and referral process to the Review Tribunal and also to identify efficiencies and learn from other jurisdictions. The Department has therefore commissioned a review of MCA Forms which aims to reduce bureaucracy and duplication across the system. It is hoped the review will be complete by May 2024.

The Department's MCA team can be contacted at: [mcaimplementation@health-ni.gov.uk](mailto:mcaimplementation@health-ni.gov.uk)



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## Mental Capacity Act – Key priorities for 2024/2025

**Commencement of Section 12 – Acts of Restraint** – The Department has started the consideration for the commencement of Section 12 (Acts of Restraint) of the MCA. We hope to have a consultation launched later in 2024. The Department has been liaising with Trust MCA Leads and have noted the challenges faced by HSC Trusts when patients who are subject to Deprivation of Liberty Safeguards (DoLS) and have a Trust Panel Authorisation (TPA), but whose care plans include restraint/other restrictions/interventions, which are not currently commenced under the Mental Capacity Act (Northern Ireland) 2016. Commencement of Section 12 would provide protection from liability to staff when implementing restrictive practices required within MCA care plans and would consequently remove the unnecessary requirement for Declaratory Orders for lawful authorisation for such acts. In addition to this, following engagement with key sector stakeholders, two technical errors were identified in Sections 288/289 and Schedule 1 paragraph 2(4)(a). It is anticipated these will be corrected alongside the commencement of Section 12.

**Future MCA Implementation** – The Department is continuing work to explore future implementation of the Act. Subject to the relevant approvals, an internal project team will be established to develop an up-to-date implementation and funding plan for full MCA implementation. This project team will consist of legal and policy advisors and will involve modelling of the uncommenced provisions and then engagement with a multi agency key stakeholder group to develop the plan based on the proposed modelling.

**Ongoing engagement with the Office of the Attorney General (OAGNI)** – The Department continues to work closely with all stakeholders to identify efficiencies for all agencies involved in the MCA DoL process. The Attorney General has recently engaged with the Department to seek clarification on the statutory requirements in a number of areas, which the Department are considering options regarding. This work has included a review of the MCA Statutory Forms and consideration of two key options that will explore how best to balance the important human rights protection afforded by the Attorney General within the Act whilst considering the most efficient means of administrative support. One option will be consideration legislative changes around the timeframes associated with Sections 48/50 of the MCA.

In addition, as we build experience through implementation of the MCA, we have become increasingly aware of the complex decisions needed in relation to people who present as happy and consenting to their care and treatment that amounts to a deprivation of liberty. We are working with the Attorney General to explore the possibility of seeking a Supreme Court position for people in these circumstances.

The Department and the OAGNI continue to meet regularly and review other possible avenues to improve efficiencies and processes across the MCA with a view to having a positive impact for all stakeholders. The Department is also continuing to meet with all relevant stakeholders in relation to these areas. The Department will continue to work with the Trusts to reduce any unnecessary referrals to the Attorney General.

**Department of Education** – The Department continues to work in partnership with the Department of Education to support them in putting in place authorisations for those young people who require a DoL in their place of education.

**PSNI and NIAS support** – The Department is acutely aware of the challenges service users experience when needing to be conveyed to hospital. We are working with our PSNI and NIAS colleagues to reach an agreed position in relation to roles and responsibilities under the MCA and an agreed way of working together to reduce delays and improve service user experiences.