

Deprivation of Liberty Safeguards – the first year

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Deprivation of Liberty Safeguards – the first year

A series of signposts and
headlines will follow

Activity for first year

| IMCA | TOTAL |
|-------------|--------------|
| S39A | 834 |
| S39C | 144 |
| S39D | 138 |

First year activity

| per quarter | 30.6.09 | 30.9.09 | 31.12.09 | 31.3.10 |
|----------------------------------|--------------------|--------------------|--------------------|--------------------|
| Granted : not granted (25:75) | 33:67 | 38:62 | 51:49 | 54:46 |
| LA:PCT (80:20) | 77:23 | 76:24 | 76:24 | 75:25 |
| LA % granted | 30% | 36% | 51% | 52% |
| PCT % granted | 41% | 44% | 49% | 49% |
| cumulative | | | | |
| LA no activity | 14 | 4 | 0 | 0 |
| PCT no activity | 40 | 19 | 8 | 3 |
| Completed assessments | 1,856 (37%) | 3,527 (36%) | 5,322 (35%) | 7,255 (37%) |

Breakdown

| Age | Q1 | Q2 | Q3 | Q4 |
|------------|-----------|-----------|-----------|-----------|
| • 18 – 64 | 35% | 34% | 33% | 33% |
| • 65 – 74 | 12% | 14% | 13% | 13% |
| • 75 – 84 | 28% | 28% | 28% | 29% |
| • 85+ | 25% | 24% | 26% | 25% |

Q1 47% male; 53% female

Q2 48% male; 52% female

Q3 46% male; 54% female

Q4 47% male; 53% female

Breakdown

| Ethnicity | Q1 | Q2 | Q3 | Q4 |
|---|-----|-----|-----|-----|
| • White British | 82% | 84% | 88% | 87% |
| • White Irish | 3% | 3% | 2% | 3% |
| • AN other White | 3% | 3% | 3% | 3% |
| • Not stated | 3% | 2% | 2% | 3% |
| • Caribbean (black or black British) | | | | |
| | 2% | 2% | 1% | 1% |
| • White and black Caribbean; any other mixed background; Indian; Pakistani; and N. African and others | | | | |
| | 7% | 6% | 4% | 3% |

Breakdown

Disability (more than one can be recorded)

| | Q1 | Q2 | Q3 | Q4 |
|-----------------------|-----|-----|-----|-----|
| • Physical disability | 40% | 44% | 42% | 43% |
| • Mental Health | 65% | 63% | 67% | 68% |
| • Dementia | 44% | 49% | 53% | 52% |
| • Learning Disability | 23% | 24% | 19% | 21% |

Breakdown

Length of authorisation

| | Q1 | Q2 | Q3 | Q4 |
|------------------|-----|-----|-----|-----|
| • 0 – 90 days | 48% | 43% | 46% | 50% |
| • 91 – 180 days | 22% | 32% | 28% | 24% |
| • 181 – 270 days | 15% | 14% | 12% | 12% |
| • 271 – 365 days | 15% | 11% | 14% | 14% |

see Information Centre for health and
social care website

<http://www.ic.nhs.uk/statistics-and-data-collections/mental-health/mental-health-act/quarterly-analysis-of-mental-capacity-act-2005-deprivation-of-liberty-safeguards-assessments-england-quarters-1-to-3-2009-10>

Emerging practice issues

1. Number of cases **168** (49/31/45/43) where no authorisation is given but person is (now unlawfully) deprived of their liberty
2. Setting of conditions
3. Appointment of RPR who may be opposed to the deprivation of liberty
4. Interface between safeguarding / MCA DOLS and Court of Protection

See DH website

http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_116351

Case law

W Primary Care Trust v B

MHA / MCA interface

DCC v KH

Conveyance

GJ v The Foundation Trust

MHA / MCA interface

See DH website

[http://webarchive.nationalarchives.gov.uk/
+/www.dh.gov.uk/en/Healthcare/Mental
health/DH_111770](http://webarchive.nationalarchives.gov.uk/+/www.dh.gov.uk/en/Healthcare/Mental%20health/DH_111770)

Emerging case law

A number of current cases are about whether there is a deprivation of liberty in supported living environments – watch this space