

To: All practices in Surrey and Sussex LMCs

20TH April 2017

Dear Colleagues

Rescindment of the requirement to hold a Coroner's Inquest in all cases where a person died whilst having an authorisation under the Mental Capacity Act to deprive them of their liberty.

Colleagues may recall that in 2014 two Supreme Court decisions extended the definition of "state detention" to include those patients who were deprived of their liberty under a Mental Capacity Act (MCA) Deprivation of Liberty Safeguard (DOLS) or, more rarely, a Court of Protection Order or other provision within the MCA.

The effect of this decision was that such deaths fell under section 1 of the Coroners and Justice Act 2009, which means that Coroners have a duty to undertake an investigation, including an inquest, into a person's death when the deceased died "whilst in custody or otherwise in state detention". The underlying purpose of this section was to ensure those who died whilst in prison or for example whilst detained in Special Hospitals would have their deaths transparently and independently investigated. However, the unintended consequence of including MCA deprivation of liberty clauses has meant, because of a concurrent very significant rise in the number of MCA DOLS authorisations for patients, usually with dementia, in residential and nursing homes, that Coroners have been required to hold inquests in every case even where the deceased died of natural causes and the death was expected, causing significant delays and unnecessary concerns to the deceased's family and those providing care for such patients.

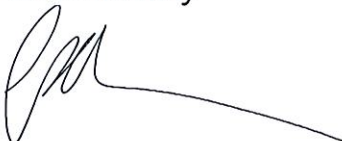
The Government has now used the passage of the Police and Crime Act 2017 to amend Section 48 of the Coroners and Justice Act so that there is no longer an automatic requirement to hold a Coroner's Inquest, or report to the Coroner, the deaths of patients after 3rd April 2017 if that patient is deprived of their liberty under a DOLS authorisation or other provision of the Mental Capacity Act.

There is still, as with all other deaths, a requirement to report to the Coroner in the normal way any deaths which appear to involve violence, are unnatural or where the cause of death is unknown or cannot be ascertained, and this would include circumstances in which there is a concern that a failure of care may have contributed to the death.

This change in the rules is gradually being disseminated in guidance to Coroners and others involved, but should result in a lessening of the workload and burden on families and carers where patients with a DOLS authorisation or other MCA deprivation of liberty provision die of natural causes and where, as in such situations is often the case, the death was expected.

With best wishes

Yours sincerely



Dr Julius Parker
Chief Executive

Local Medical Committees for
Croydon, Kingston & Richmond, Surrey,
East Sussex and West Sussex

The White House T: 01372 389270
18 Church Road F: 01372 389271
Leatherhead
Surrey KT22 8BB www.sslmcs.co.uk