

**FAO:**  
CCG Chief Officers  
Chief Nurses (CCGs and Providers)  
Medical Directors

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Sent via email

31/07/2020

Dear Colleagues

I am writing to you following concerns raised by the Regional Mental Capacity Act Group in relation to the Department of Health and Social Care (DHSC) press release dated 3 July 2020, which confirmed that Covid-19 PCR testing would be routinely rolled out to Care Homes.

I recognise the concern raised that the press release did not make specific reference to consent or decision making for those who lack capacity to consent to a swab test, and this concern has been escalated to the National Safeguarding Lead and with system leaders including CQC and DHSC and escalated through the Regional ICC to the National ICC.

Please may I take this opportunity to remind you of the Department of Health and Social Care guidance on the application of the MCA and DoLS during Covid-19 which states that the principles of the MCA, and the safeguards provided by DoLS still apply in full.

Informed consent remains best practice including any Covid processes such as swabbing. If informed consent is not possible then a process of best interest decisions can be implemented. Best interest decisions will need to be made in a number of situations including testing, recognising that testing asymptomatic individuals at risk of infection can identify infection earlier and improve outcomes.

To support providers of care across the system we have developed an MCA and DoLS rapid read of key principles with links to additional resources, which will support providers whilst recognising that blanket directives impact many people in diverse ways. The rapid read is available in both print and digital formats and both are attached to this email, which I would encourage you to share widely throughout your networks.

If you have any queries, please do not hesitate to contact our regional safeguarding team at [england.northsafeguarding@nhs.net](mailto:england.northsafeguarding@nhs.net)

Kind Regards



Alison Smith  
Director of Nursing, Leadership and Quality (on behalf of)

Margaret Kitching  
Regional Chief Nurse, NHS England and NHS Improvement