



This is your guide to Deprivation of Liberty Safeguards (DoLS)

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About this guide

Sometimes it is necessary to restrict an individual's movements so they can receive the care and treatment they need within a residential or hospital setting. We refer to this as a deprivation of liberty. If someone you support, for example a friend or relative, is being 'deprived of their liberty' you may have concerns about what will happen to them and what support is in place to protect them.

This guide will help to explain:

- a deprivation of liberty;
- the Mental Capacity Act (MCA) Deprivation of Liberty Safeguards (DoLS);
- the DoLS assessment and review procedures.

What is a 'deprivation of liberty'?

If a person lacks the mental capacity to make decisions about the care or treatment they need and may be at risk if that care is not provided, it is sometimes in their best interests to deprive them of their liberty to ensure they receive the care or treatment. The aim of this is to prevent the person from coming to harm.

Examples of a 'deprivation of liberty' could include restricting a person's movements within a setting, preventing them from leaving a specific ward in a hospital or leaving a care home.

What are the Mental Capacity Act Deprivation of Liberty Safeguards?

Article 5 of the Human Rights Act states that 'everyone has the right to liberty and security of person and that no one shall be deprived of his or her liberty [unless] in accordance with a procedure prescribed in law'.

The Mental Capacity Act Deprivation of Liberty Safeguards is the procedure prescribed in law to provide protection for vulnerable people accommodated in a hospital or care home who have been deprived of their liberty. Such individuals lack the capacity to consent to the care or treatment they need. These safeguards provide a lawful way to deprive someone of their liberty, provided that this is in their best interests or is necessary to keep them from harm.

We sometimes abbreviate the term Mental Capacity Act Deprivation of Liberty Safeguards to MCA DoLS or just DoLS.

What does this mean for my friend or relative?

Just because the term “deprivation of liberty” is used it doesn’t mean that someone is doing something wrong. It simply means that the situation needs someone independent to look at it to ensure the person’s rights are being protected and to confirm that things should continue as they are.

If your friend or relative is in a care home or hospital, this will be done through a process known as DoLS, the “Deprivation of Liberty Safeguards”. This process is explained in detail in the next section of this guide.

If they are living anywhere else, such as in a supported living arrangement or in their own home, it will be necessary for a judge of

the Court of Protection to look at the situation. This is known as a “Deprivation of Liberty Order”, you may also hear it referred to as Community DoLS or Judicial Authorisations.

What is the DoLS Authorisation process?

Making an application

If a care home or hospital decide it may be necessary to deprive a person of their liberty, they must make an application to the supervisory body (the Council in which a person would normally reside) for a DoLS authorisation. The hospital or care home can make the application up to 28 days in advance of the date the deprivation would begin. If necessary, they can issue themselves a 7-day urgent authorisation, however, at the same time, they must also apply for a standard authorisation to the Council.

When a care home or hospital make an application for a DoLS authorisation, they should tell the person’s family members and/or friends.

The supervisory body (the Council) has 21 days to determine if the authorisation should be granted.

Assessments

When an application is received, we (the Council) will arrange for assessments to determine whether it would be in the person’s best interest to deprive them of their liberty.

The assessments must look at:

- age (whether the person is 18 or over);
- mental health (whether the person suffers from a mental disorder);
- mental capacity (whether the person lacks capacity to decide where they should be);

- no refusals (whether there is conflict with an advance decision, lasting power of attorney or deputy);
- eligibility (whether the deprivation would conflict with an existing order under the Mental Health Act);
- best interests (whether deprivation would be in the person's best interests, is necessary to prevent them from harm and is a proportional response to the risk and seriousness of harm).

A specialist doctor assesses the person to determine that they lack mental capacity to make a decision about the DoLS. The best interest's assessor will look at if being in the care home or hospital is in their best interests and ensure that the care and/or treatment can't be done in a less restrictive way.

As part of their assessment the best interest assessor must also consult with family members and friends (known as 'Interested persons') of the person being deprived of their liberty. These will include the person's partner (spouse or civil partner), children or stepchildren, parents and stepparents, brothers and sisters, half-brothers and sisters and stepbrothers and sisters, grandparents, a Court appointed Deputy or a donee of a lasting power of attorney.

Authorisation Granted/Not Granted

Once the assessment reports are completed they will be sent on to the DoLS signatory to be reviewed and authorised if all criteria are met.

A form will be issued to advise if the deprivation of liberty has been authorised, and if so for how long. Copies of all assessment reports will be sent to the following people:

- The person being deprived of their liberty.
- The care home or hospital.
- The Independent Mental Capacity Advocate (IMCA)

- The Relevant Persons Representative (RPR).

If an authorisation is not granted and the person's circumstances change the care home or hospital may make a further application to the Council.

Can I support my friend/relative through the DoLS Authorisation process?

A Relevant Person's Representative (RPR) will be appointed to represent and support the person in all matters connected with the DoLS authorisation.

The RPR is usually a family member or friend, or can be a suitable person chosen by an attorney acting under an lasting power of attorney, a deputy appointed by the Court of Protection, or a best interests assessor.

If an appropriate representative cannot be found, the Council will contact the Independent Mental Capacity Advocacy Service to provide the necessary support to the person.

The role of the RPR is to:

- to maintain face to face contact with the person being deprived of their liberty
- to represent and support that person in all matters relating to the MCA DOLS; including, if appropriate, requesting a review, using an organisation's complaints procedure on the person's behalf or making an application to the Court of Protection;
- to provide support that is independent of the relevant person's commissioners and service providers.

Who can request a review of the DoLS Authorisation?

The Council must review the deprivation of liberty authorisation if requested to do so by the person deprived of their liberty, the hospital or care home where they are staying, or the relevant person's representative.

The outcome of the review may be that: the deprivation of liberty authorisation is ended, the conditions attached to it are changed, or the person still meets the conditions for deprivation of liberty, possibly for a different reason.

What happens when the DoLS Authorisation ends?

The whole process will start again if the authorisation period comes to an end and a further authorisation is required.

If you need help to read or understand this guide please speak to your health or social care worker or contact Adult Social Care on 01642 771500.

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Our normal office hours are **Monday to Thursday: 8.30 am - 5.00 pm**

Friday: 8.30 am - 4.30 pm

If you need help in emergency when our offices are closed, you can contact the

Emergency Duty Team: Telephone: 01642 524552.

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