

# **The Deprivation of Liberty Safeguards (DoLS)**

## **The Deprivation of Liberty Safeguards (DoLS)**

The Deprivation of Liberty Safeguards forms part of the Mental Health Capacity Act 2005 and is a term we use throughout our services. It is a series of criteria to ensure that patients admitted to health and social care services retain their liberty and dignity and that these are not compromised. It is important to note that a DoLS only applies when an individual is in, or will be in a hospital or care home and does not apply to those patients detained under the Mental Health Act.

### **Individuals will only ever be deprived of their liberty if :**

- They lack capacity to make decisions (when people cannot make a decision for themselves)
- It is in their best interests to be deprived of their liberty
- Doing so is proportionate to any given risk
- There is no reasonable alternative or other alternatives have been tried and failed

The safeguards were originally made following the 1997 case of a man with autism, who was receiving treatment in Bournemouth Hospital. Due to his condition he was not able to make his own decisions and this included whether to stay in hospital or go home. His carers believed the man was not free to do all the things he wanted to do but they also wanted him to be discharged home. The hospital didn't agree with the carers' beliefs and felt the patient needed to be in hospital to ensure he got the best possible treatment.

As a result of this the patient's carers applied to the **European Court of Human Rights** to intervene in accessing what was in the patient's best interests. The court agreed with the patient's carers and identified that the hospital had broken the law in taking away the patient's liberty without any safeguards. If you are interested in learning more about the case you can google search 'HL v the UK' or 'Bournemouth'.

The UK Government thereafter introduced a set of new rules to ensure people are cared for and treated with dignity and respect, always ensuring the best interests of the individual. These rules are Mental Capacity Act 2005 Deprivation of Liberty Safeguards.

### **What are the safeguards?**

Those tasked with planning patient care should always consider all opinions doctors, nurses, patient and family which may or may not restrict a patient's freedom, and should provide care in the least restrictive way possible. However sometimes it may be necessary for a hospital or specialist care centre to deprive a person of their liberty in order to care for them safely and effectively. They alone cannot implement a DoLS and so must gain permission to do so, following a strict set of processes or safeguards.

- To provide a patient with a representative who is able to act on their behalf (this might be a patient's next- of- kin such as mum, dad, husband, wife, daughter or son or named representative with power of attorney)
- To give the person (or their representative) the right to challenge a deprivation of liberty through Court of Protection
- To provide a mechanism for a DoLS to be reviewed and monitored regularly

Applications for a standard authorisation are normally made to the patient's supervisory body (commissioner, thereafter the supervisory body will arrange an assessment to decide what is in the best interests of the patient and their care. They will consider a range of criteria including : age of the patient (they are over 18 years old their mental health, their mental capacity, best interests of the patient, eligibility (under the Mental Health Act 1993 and no refusals which means if the patient has previously made advance decisions about their treatment such as a power of attorney.

### **What deprivations should I expect?**

There are many ways in which a person's liberty may be restricted and can vary enormously from person- to- person. This is because each patient case is unique and illnesses and conditions may affect individuals in different ways. For example, in brain injury a patient may refuse to eat due to their injury and may also refuse to take their medication to stabilise their conditions. There is no real availability of a definition for 'deprivation of liberty' however the following may be considered examples and include:

- A patient being restrained in order to admit them to hospital
- Medication being given against a person's will
- A person's movements are controlled by staff for a significant period of time
- A decision is made that a patient cannot be released into the care of others or to live elsewhere
- A person is restricted from having access to their friends or families

## Further Information

### Court of Protection

The Royal Courts of Justice,  
Thomas Moore Building,  
The Strand,  
London,  
WC2A 2LL

T. 0300 456 4600 (9am till 5pm weekdays)  
020 7947 6000 out of hours  
W. [www.gov.uk/court-of-protection](http://www.gov.uk/court-of-protection)

### Office of the Public Guardian

PO Box 16185,  
Birmingham,  
B2 2WH

T. 0300 456 0300  
W. [www.gov.uk/office-of-public-guardian](http://www.gov.uk/office-of-public-guardian)

### Department of Health

Richmond House,  
79 Whitehall,  
London,  
SW1A 2NS

T. 020 7210 4850 (8:30am till 5pm)  
W. [www.dh.gov.uk](http://www.dh.gov.uk)

If you wish to challenge an authorisation, these can be challenged in the Court of Protection. There is some useful information and letter template for raising concerns and reviews for authorisation on the [MIND website](#) within their factsheet for DoLS.