

# Deprivation of Liberty Safeguards

This leaflet explains when and how the Mental Capacity Act Deprivation of Liberty Safeguards is used



**care and  
support  
& you**

**The Mental Capacity Act Deprivation of Liberty Safeguards (MCA DoLS) came into effect on 1st April 2009. The reason you have been given this leaflet is because someone you care about is eligible for MCA DoLS.**



The MCA DoLS provide protection for vulnerable people who lack the capacity to consent to the care and treatment they need in a care home, hospital, in supported living or at home.

The assessment process ensures that any restrictions placed on the person are done so in their best interests and that they are proportionate to the risks the person may face.

The majority of people who require the protection of the MCA DoLS may include those with a:

- severe learning disability
- diagnosis of dementia
- a neurological condition
- brain injury.

### **How is it decided if a person is deprived of their liberty**

The Supreme Court has ruled that there are two criteria for someone being deprived of their liberty:

- 1 The person is under continuous supervision and control.

- 2 They are not free to leave the care setting and they do not have the mental capacity to understand and consent to their current care or treatment plan.

If these criteria are met, then the person will need to be referred to the DoLS Team so that the appropriate assessments can take place.

As part of the assessment, a Best Interest Assessor will meet the cared for person in the hospital or care home and discuss their care and treatment. They will contact family or friends, known as 'interested persons', to find out their views and whether they feel the current care and treatment plan is appropriate. Also, a doctor will be asked if the person is eligible for MCA DoLS and to provide proof that the person has a mental disorder and lacks capacity to consent to the care and treatment arrangements.

If the person is living in their own home a social worker will undertake and arrange the necessary assessments. As they will make an application to the Court of Protection to authorise the arrangements.

## **The role of the representative and what you should consider before MCA DoLS authorisation is granted**

If you are representing a friend or family member who receives care, you should:

- be sure that the person you represent is eligible to be deprived of their liberty under the terms of the MCA DoLS.
- If you have any doubt, you can request a review of their MCA DoLS authorisation at any time from the DoLS Team.
- ensure that the MCA DoLS are never used for the convenience of professionals, carers or anyone else, or as a form of punishment for the relevant person.

As the representative of someone who is being or will be deprived of their liberty, you should have a good understanding of the assessment process. If you need any advice on this, please contact the DoLS team at the council.

Every effort should be made to prevent a deprivation of a person's liberty. If it cannot be avoided, the deprivation should be for no longer than is absolutely necessary. If it is unlikely that your friend or family member's health condition will change, the duration of an authorisation could be in place for a longer period of time, up to one year.

There are two processes. One for people in care homes and hospitals where authorisation is granted by the council; and one for people who live in their own home and authorisation is granted by the Court of Protection.

## **Lasting Power of Attorney/ Deputy**

If you have been appointed as the Lasting Power of Attorney or Deputy for Health and Welfare decisions, then you can make best interest decisions for the person you care for. However, if the care arrangements you make amount to a deprivation of person's liberty then a formal authorisation will be sought either from the local authority if the person is in a care home or hospital or from the Court of Protection in community settings such as the person's own home.

If the person you are caring for has made an advance decision (before you are appointed and they had capacity to do so), about their care plan or a particular treatment, then DoLS cannot be used to reverse their decision.





## Can an authorisation be challenged?

You can challenge an authorisation on behalf of the person you represent by contacting the DoLS team at the council.

If you wish to challenge an authorisation from the Court of Protection, you should contact:

### **The Court of Protection Customer Services**

**Telephone:** 0845 330 2900

**Email:** [customerservices@publicguardian.gsi.gov.uk](mailto:customerservices@publicguardian.gsi.gov.uk)

### **Further information**

You can read more about MCA DoLS on the Department of Health website or contact the council.

## Our contact details

Monday to Friday 9am to 5pm

**Telephone:** 020 8891 7971

**SMS Phone:** 07903 738043

**Email:** [dols@richmondandwandsworth.gov.uk](mailto:dols@richmondandwandsworth.gov.uk)

**Website:** [www.richmondcareandsupport.org.uk](http://www.richmondcareandsupport.org.uk)

## Write to us at:

London Borough of Richmond Upon Thames Council  
Adult Social Care  
Civic Centre  
44 York Street  
Twickenham  
TW1 3BZ

For information on local  
services please visit CarePlace  
[www.careplace.org.uk](http://www.careplace.org.uk)



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