

What are my responsibilities in regard to DOLS?

Comply with the MCA and DOLS and 'have regard to' the MCA Code of Practice and DOLS Code of Practice.

- **MCA will not permit someone being deprived of their liberty without such an authorisation**, unless it is a consequence of following a decision of the Court of Protection on a personal welfare question, or being authorised for life-sustaining or other emergency treatment.
- Any paid staff with a concern, should apply to the supervisory body to trigger an assessment of whether a person is deprived of liberty, if they have asked the care home or hospital to apply for an authorisation but it has not been done. This would lead on to the full assessment process if the finding is that the person is deprived of liberty.
- Care home and hospital managers will have a duty to:
 - request authorisation where necessary and implement the outcomes;
 - take all practical steps to ensure that the person concerned and their representative understand what the authorisation means for them and how they can apply to the Court of Protection or request a review;
 - ensure that any conditions attached to the authorisation are met; and
 - monitor the individual's circumstances as any change may require them to request that the authorisation is reviewed.

Useful Resources

Mental Capacity Act (2005) Code of Practice

- download from www.publicguardian.gov.uk.
- order hard copies from www.tso.co.uk

Deprivation of Liberty Safeguards Code of Practice

- download from www.dh.gov.uk
- order hard copies from www.tso.co.uk

Local Resources

- www.kent.gov.uk/mentalcapacityact
- www.medwaypct.nhs.uk/Our_services/Mental_Capacity_Act_2005/html

Kent and Medway Independent Mental Capacity Advocacy Service

- 07918 698107

see also

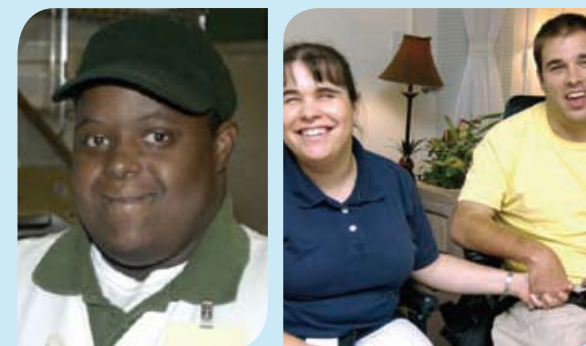
Department of Health leaflet **What are the Mental Capacity Act 2005 Deprivation of Liberty Safeguards?**

and

Mental Capacity Act (2005): A brief guide for social and health care staff

Deprivation of Liberty Safeguards

Mental Capacity Act 2005



A brief guide for social and health care staff

To be used in conjunction with the Mental Capacity Act (2005) Code of Practice, the Deprivation of Liberty Safeguards Code of Practice and your own organisation's policies and procedures.

Produced by the Kent and Medway Local Implementation Network for the implementation of MCA and DOLS (January 2009).

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Deprivation of liberty safeguards 2008

What are the Deprivation of Liberty Safeguards (DOLS)?

- apply to people aged 18 and over; and
- suffer from a mental disorder; and
- lack the capacity to give consent to the arrangements made for their care or treatment in a care home or hospital, under public or private arrangements; and
- for whom a deprivation of liberty is considered, after an independent assessment, to be a necessary and proportionate response in their best interests to protect them from harm; and
- detention under the Mental Health Act 1983 is not appropriate for the person at that time.

What should I consider when working with people who may be affected by DOLS?

- Keep the five principles of the Mental Capacity Act 2005 (MCA) in mind at all times.
- If a person is at risk of deprivation of liberty because they are subject to frequent, cumulative and ongoing restriction or restraint, consideration should always be given to less restrictive alternatives. This could include simple actions such as the implementation of a care plan incorporating visits from relatives, home visits for the individual or planned trips out and the involvement of local advocacy services. If this cannot be achieved, then you must apply for an authorisation under DOLS (from 1st April 2009).

Key words I need to know

restraint

the use or threat of force to help carry out an act that the person resists; may only be used where it is necessary to protect the person from harm and is proportionate to the risk of harm

restriction of liberty

an act imposed on a person that is not of such a degree or intensity as to amount to a deprivation of liberty

deprivation of liberty

used in the European Convention on Human Rights about circumstances when a person's freedom is taken away

Managing Authority (MA)

the person or body with management responsibility for the care home or hospital in which a person is, or may become, deprived of their liberty

Supervisory Body (SB)

a local authority or a primary care trust, responsible for considering a deprivation of liberty request received from a MA, commissioning the statutory assessments and, where all the assessments agree, authorising deprivation of liberty

standard authorisation

an authorisation given by a SB, after completion of the statutory assessment process, giving lawful authority to deprive a relevant person of their liberty in the relevant hospital or care home, up to a maximum of 12 months

urgent authorisation

given by a MA for a maximum of 7 days, which may subsequently be extended by a maximum of a further 7 days by a SB, that gives the MA lawful authority to deprive a person of their liberty in a care home or hospital while the standard deprivation of liberty authorisation process is undertaken Independent.

Mental Capacity Advocate (IMCA)

someone who provides support and representation for a person who lacks capacity to make specific decisions, where the person has no-one else to support them

Relevant Person

a person who is, or may become, deprived of their liberty in a care home or hospital

Relevant Person's Representative (RPR)

a person, independent of the relevant care home or hospital, appointed to maintain contact with the relevant person, and to represent and support the relevant person in all matters relating to the operation of DOLS

standard forms for care homes and hospitals
coloured blue

standard forms for PCTs and local authorities
coloured green

Standard forms for DOLS are available from www.dh.gov.uk