

What do managers of care homes and hospitals need to do if they think they are caring for someone who is deprived of their liberty?

If the managers of a care home or hospital believe that a person they are caring for lacks capacity to make decisions about their care plan or where they reside and they meet the Acid Test indicating they are deprived of their liberty then the managers or their staff must do the following:-

- 1) Complete an appropriate form granting themselves a 7 day Urgent Authorisation under the Deprivation Of Liberty Safeguards
- 2) Complete a referral form requesting that the local authority authorise a standard authorisation under the Deprivation of Liberty Safeguards
- 3) Complete the Herefordshire Council DoLS triaging form
- 4) Fax all of the above to the Herefordshire Council DoLS team to: 01432 260957

To obtain copies of the relevant forms email the DoLS team on DoLS@herefordshire.gov.uk or phone 01432 383645

How can I find out information about the Deprivation of Liberty Safeguards?

Locally within Herefordshire:-
For further advice and information contact Herefordshire Deprivation of Liberty Safeguards team by Email at DoLS@herefordshire.gov.uk or Phone: 01432 383645
For access to local Multi agency Deprivation of Liberty Safeguards Policy visit the Herefordshire Safeguarding Adults Board on the following web site: https://www.herefordshire.gov.uk/safeguarding_adults

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Deprivation of liberty safeguards

A quick guide for professionals

What is a deprivation of liberty and why is it important?

The term deprivation of liberty can be found in article 5 of the European Convention of Human Rights, which says that no one should be deprived of their liberty unless this has been authorised by a legal procedure. In 1998 the UK became bound by the European Convention of Human Rights and its articles when the Human Rights Act became law.

There have been a number of pieces of case law both in Europe and the UK which have helped to define what is meant by the term Deprivation of Liberty. Most recently in the UK in March 2014 the Supreme Court ruled in a number of cases and clarified what deprivation of liberty means. In clarifying this definition they came up with what is referred to as the Acid Test, which describes what a deprivation of liberty is as follows:-

- (1) Is the person subject to continuous supervision and control
- (2) Is the person free to leave

(both parts of the above test need to be met)

Guidance regarding the Acid test can be found on the Law Society web site at: <http://www.lawsociety.org.uk/>

If the Acid test is met and the person lacks capacity to agree to the restrictions that are resulting in the Acid test being met then they are deprived of their liberty and a legal framework authorising this deprivation, if appropriate must be sought.

What are Deprivation of Liberty Safeguards?

Deprivation of Liberty Safeguards (DoLS) are a legal framework created as an amendment to the Mental Capacity Act. This framework is designed to protect adults who lack capacity to make decisions about their care and treatment and where they live and who are deprived of their liberty as a result of the care and treatment arrangements that are in place to keep them safe.

Who does the deprivation of Liberty Safeguards apply to?

DoLS only applies to adults who are over the age of 18 who reside in registered care or nursing homes or are inpatients in a hospital. DoLS is only relevant to these people if they lack capacity to consent to the care and or treatment that they are receiving or to residing in the home or hospital and the care plan in place includes restrictions that amount to a deprivation of liberty

Who is responsible for implementing the framework?

The local authority where a person usually lives is responsible for assessing people under DoLS and where appropriate will authorise a deprivation of liberty.

What does the process involve?

The process involves the person being assessed by a doctor and a Best Interest Assessor. These professionals will assess the person's capacity, their mental health and look at the care plan and restriction that are in place to see if they are in the person's best interest. They will then submit the reports to the local authority who will scrutinise them and authorise the DoLS if appropriate.