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What are...
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of Liberty
Safeguards (DoLS)?***

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Sometimes care homes and hospitals have to limit people's freedom to keep them safe. The Deprivation of Liberty Safeguards (DoLS) provide a legal framework that helps to ensure the person's human rights are protected. The DoLS are part of the Mental Capacity Act 2005. They say that people can only be deprived of their liberty when they lack mental capacity to make decisions about their care and accommodation, and it is in their best interests.

The DoLS were introduced in 2007 after a European Court of Human Rights ruling. The ruling found that a man with autism had been unlawfully deprived of his liberty in Bournemouth Hospital because the hospital had not used any legal framework to detain him. This had meant that his carers experienced real difficulty in trying to get him released from the hospital, as there was no system to appeal against his admission.

How do ... *they work?*



In 2014 the Supreme Court said that a person is deprived of their liberty if they are under continuous supervision and control and are not free to leave. A person can be deprived of their liberty even if the restrictions are in their best interests, and where they are not objecting.

Care homes and hospitals must apply to their local authority for authorisation to deprive a person of their liberty.

The authority must send out two independent assessors to assess whether the qualifying requirements for the DoLS are met. The mental health assessor must be a specially trained doctor. The 'best interests' assessor will talk to the person and their family and friends about the person's best interests, and consider whether deprivation of liberty is a necessary and proportionate response to any risks.

If a person has a Lasting Power of Attorney or deputy for welfare decisions, then they can only be deprived of their liberty under the DoLS with their agreement. If a person has made an Advance Decision refusing a particular treatment, then the DoLS cannot be used to deprive them of their liberty to deliver this treatment.

If authorisation is granted, a 'representative' will be appointed to help the person to exercise their rights. This is often a relative, but it could be somebody with experience acting as an advocate. The person and their representative are entitled to help from an 'Independent Mental Capacity Advocate' (IMCA).



The detained person and their representative have a right to request a review by the local authority. They are also entitled to legal aid to appeal against the deprivation of liberty authorisation in the Court of Protection. The court will review whether the person lacks capacity and whether the detention is in their best interests. Sometimes the DoLS can run into tricky technical questions, and the court can determine these.

How do ...

I know if things are working well?

Care homes, hospitals and commissioners work closely with people and their families to resolve concerns and disputes.

Providers seek authorisation, even if there is some doubt about whether a person is deprived of their liberty or not, to help ensure the person's rights are protected.

DoLS assessors are impartial and understand that an unwise decision is not the same as lacking capacity.

Best interests assessors consult properly with friends and family about their views and make sure any disagreements or alternative placements are properly considered and recorded.

People who are deprived of their liberty and their representative are offered support from an IMCA and a referral is made if they need help to exercise their rights.

Where there is significant disagreement about whether a person should be deprived of their liberty, local authorities apply to the Court of Protection for an independent review of the issues.

Practical advice



Sometimes deprivation of liberty occurs in settings other than care homes and hospitals, for example in supported living. If that occurs, providers and the local authority must seek authorisation directly from the Court of Protection. If you are worried somebody in supported living or a similar setting is deprived of their liberty you should inform the provider and the local authority.

Don't be afraid to exercise your right to request a review or apply to the Court of Protection if there is a serious disagreement. Advocates may be able to help you locate a solicitor.

If you think somebody may be deprived of their liberty without proper authorisation, ask the care provider to apply to the local authority for authorisation.

If a DoLS application is made for a relative, and you support their care plan, remember that the authorisation means that an independent assessor agrees that the care is in their best interests.

If you are subject to the DoLS, or represent somebody who is, an IMCA can help you with understanding the process and your rights.

More information can be found in the DoLS code of practice.

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Councils have to ensure that people who are unable to make their own decisions about where they live are safeguarded from having their liberty restricted. It is essential that the public, families and carers understand what these safeguards are.

This guide provides a jargon-free introduction to the Deprivation of Liberty Safeguards (DoLS), explains how they work and sets out what to expect.

This guide has been produced by Research in Practice for Adults. We are a charity that uses evidence from research and people's experience to help understand adult social care and improve how it works.

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Many thanks to: Ann Brooking, Esther Donald, Johnson Koikkara, John McCarthy and Rachel Hubbard for their comments on this resource.

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Updated July 2014

Dartington