

Deprivation of Liberty Safeguards (DoLS)

IMCAs also become involved with DoLS cases. The MCA DoLS are an addition to the original Act, to provide protection for vulnerable people.

In some cases, people who have been accommodated in hospitals or care homes have been deprived of their liberty, DoLS was set out to protect against this.

What does Deprivation of Liberty mean?

Deprivation of Liberty is a really difficult term to break down. It depends on the individual situation; lots of factors must be taken into account, such as whether:

- the person is resisting or other people want the person to be discharged
- staff have total control over the person's care and movement
- staff control who the person can see and what kind of treatment they have
- the person has lost all autonomy

The MCA DoLS state that deprivation of liberty should be:

- avoided whenever possible
- authorised in cases where it is in the relevant person's best interests and the only way to keep them safe
- for as short a time as possible
- only for a particular treatment plan or course of action.

When can someone be deprived of their liberty?

There are several factors that must be in place before someone can be deprived of their liberty.

1. It must be to provide a specific treatment or care plan that is in the person's best interests.
2. There is no alternative that would provide a suitable care plan, without depriving the person of their liberty. This must be assessed by doctors or care professionals.
3. The hospital or care home where the person is staying must apply to its supervisory body (PCT or local authority) for authorisation to begin the care plan.
4. The supervisory body must conduct six assessments to confirm that deprivation of liberty is lawful and appropriate:
 - Age assessment: to check whether the person is aged 18 or over

- No refusals assessment: to ensure that the proposed treatment does not conflict with a valid decision already made by an attorney or deputy on the person's behalf, or with a decision made in advance by the relevant person themselves
- Mental capacity assessment: to confirm whether the person being deprived of liberty lacks capacity to consent to the arrangements made for their care and treatment
- Mental health assessment: to check whether the person being deprived of liberty is suffering from a mental disorder within the meaning of the Mental Health Act 1983. If they are, different rules may apply
- Eligibility assessment: to confirm whether the person is eligible to be deprived of liberty under the MCA DOLS
- Best interests assessment: to confirm whether it is in the best interests of the person to be subject to the authorisation, necessary in order to prevent them from coming to harm and a proportionate response to the likelihood of them suffering harm

The supervisory body will agree to the care plan if the answer to all six assessments is yes.

Relevant Person's Representative (RPR)

If someone is legally deprived of their liberty, they are still entitled to a relevant person's representative (RPR).

This is usually a member of the family or a friend. They would be consulted about the care and treatment of the person while the situation exists.

If you are a RPR, you are able to make decisions on behalf of your friend or family member. You also have the legal right to:

- Request a review of the authorisation at any time
- Ask for an Independent Mental Capacity Advocate (IMCA) to be appointed, to provide extra support to the relevant person and their representative if they do not already have a professional representative.

You can find out more information about **DoLS on the Department of Health's** website.

For further information or to make a referral please contact the IMCA referral line on 0300 330 5499 or email imca@voiceability.org www.voiceability.org.

Help us improve

Want to make a comment, complaint, suggestion or compliment? Talk to any of our team members - email us on comments@voiceability.org or give us a ring on 01223 555800.