

Deprivation of Liberty Safeguards (DoLS)



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What is the leaflet about

This leaflet is a guide for people to understand what a Deprivation of Liberty is all about and who can be a Relevant Person's Representative (RPR). It also describes the role of RPR, what they need to fulfil in the role and what support can be offered.

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What is Deprivation of Liberty Safeguards (DoLS)?

Deprivation of Liberty Safeguards is a procedure described by law to assess a person who is in a care home or hospital to ascertain that it is a person's best interests to receive the care/treatment they receive in a hospital setting.

The Cheshire West legal judgement in 2014 introduced an "acid test" which helps identify people in care homes and hospitals who may be deprived of their liberty with various restrictions. This acid test is a question of whether the person is under "continuous supervision and control" and "not free to leave" the care home or hospital if they asked to. If the answer is yes to both, then they may be deprived of their liberty and an assessment process to confirm that or not, needs to be completed.



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What is a Supervisory Body

The Supervisory Body is responsible for ensuring that the DoLS procedure is carried out and monitored within a legal framework. It is responsible for people Ordinarily Resident in the individual's local authority who could be placed or admitted to a hospital or care home, anywhere in England or Wales. This includes private placements and private hospital admissions in the Supervisory Body's borough. If a person lacks capacity to consent to their care arrangements, it is the Supervisory Body, who is responsible for ensuring that assessments are carried out, and the requirements are met to lawfully deprive someone of their liberty. The Supervisory Body ensures that it is in a person's best interests to reside at a care home or hospital for care and treatment.

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Definition of Deprivation of Liberty

Someone may be under restrictions in a care home or hospital, who lacks capacity to consent to their care.



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DoLS Assessment Requirements

The Supervisory Body will arrange the assessment process and 2 assessors will visit.

There are 6 requirements, all of which have to be met before a Supervisory Body can legally authorise a Deprivation of Liberty they are:

- (1) Age (Person has to be 18 years old or older).
- (2) Mental Health (Person has to have a mental disorder as described in the Mental Health Act).
- (3) Mental Capacity (Person has to lack capacity to validly consent to their care arrangements).
- (4) Best Interests (Person has to satisfy that it is in their best interests to receive care/treatment in the hospital or care home).
- (5) Eligibility (Person in a hospital setting may be objecting to care/treatment due to their mental disorder and this is the main reason the person is in hospital for).
- (6) No Refusals (Person may have someone who is Lasting Power of attorney who can refuse DoLS being authorised in a particular setting). The assessment is carried out by 2 professionals a Best Interests Assessor (BIA) and a doctor qualified under s.12 of the Mental Health Act.

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What is a Relevant Person's Representative?

An RPR is someone who protects the rights and interests of a person who is not able to make some decisions for themselves and needs to be in a hospital or care home for their own safety, care or treatment. In most cases this will be a relative, friend or other person (non-professional) who is close to the person who has been assessed as deprived of their liberty. There may in some cases be people who do not have anyone who is able to act as RPR. If this is the case, the Supervisory Body responsible for assessing a person need to provide a professional RPR or Relevant Person's Paid Representative (RPPR). Recommendation as to who will be best placed to be the RPR is made by the Best Interests Assessor (BIA) who is assessing the person. It is then up to the Supervisory Body to appoint the person identified by the BIA if they meet the criteria for the role. That is, they need to be over 18 years of age, able to maintain regular contact with the person face to face in order to monitor the situation and support the person in all matters including supporting them to challenge the situation and be willing to undertake the role.

The appointed RPR/RPPR will be consulted for their views as a part of the DoLS process by the BIA.



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What are the duties of an RPR?

An RPR has to keep in touch regularly with the person they represent and help them with any issues related to their care or treatment. They can also ask for a review or challenge the decision to deprive the person of their liberty if they think it is not right under s.21a of the Mental Capacity Act. They can check that the care home or hospital is meeting any conditions which may be part of a DoLS authorisation, help the person to understand how a DoLS authorisation might affect them, support the person to understand their situation and rights under DoLS and as far as possible, support a person in exercising their rights if they have a DoLS in place. An RPR can ask for a review of a DoLS at any time during the authorisation as well as supporting the person to challenge. The RPPR also has the same duties.

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What are the rights of an RPR?

An RPR has the right to get information and support from the hospital or care home where the person is staying. They can also access their own support to assist them in their role from an Independent Mental Capacity Advocate (39d IMCA) who can help them for example with the legal process. They also have the right to access free legal aid for the person, if they want to go to court to challenge the DoLS/care arrangements. This is not means tested. There are many solicitor's firms who are able to help people and their representatives available on the internet. The RPPR has the same rights but the 39d role is not relevant.



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When does the role of an RPR and RPPR end?

The RPR and RPPR roles are for the duration of the DoLS authorisation or if a person moves or passes away. The RPR can also stop being an RPR if they want to at any time, and it would then be up to the Supervisory Body authorising to ensure that the person who has an authorisation has access to a representative. The Supervisory Body also has the power to stop a person from undertaking the role if they are not fulfilling their responsibility.



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How to find out more

DoLS Team - If you have concerns that someone is being deprived of their liberty in a care home or hospital and they lack capacity to consent to their care arrangements.

Call or email the main Adult Social Care number to discuss your concerns - as appropriate they will put you in touch with the DoLS Team for further advice:

Kensington and Chelsea

T: 020 7361 3013

E: socialservices@rbkc.gov.uk

Westminster

T: 020 7641 2176

E: adultsocialcare@westminster.gov.uk

Additional Resources

The OPG can make decisions in peoples best interests relating to their property, finances, health or welfare. The Court may appoint a deputy to make certain decisions on behalf of the person lacking capacity, usually about property and financial matters. The OPG can support family members and or representatives to apply to become either a deputy or Lasting Power of Attorney.

www.publicguardian.gov.uk

T: 0845 330 2900

E: customerservices@publicguardian.gsi.gov.uk

Read The Mental Capacity Act 2005 Easy Read document [here](#)



Read The Mental Capacity Code of Practice and Deprivation of Liberty Safeguarding leaflet [here](#)

Read IMCA and paid relevant person's representative roles in the Mental Capacity Act Deprivation of Liberty Safeguards [here](#)



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