

Mental Health Hospitals and Deprivation of Liberty Safeguards

7: If in doubt contact the Deprivation of Liberty Safeguards Team to discuss at:

Team to discuss at:
deprivationofliberty@newham.gov.uk

1: About DoLS

- For adults/ patients 18+ who lack capacity to consent to their hospital admission, care and treatment.
- If under continuous supervision and control and is not free to leave.
- This Safeguards under the Mental Capacity Act 2005 ensures adults have the right to appeal and interventions are least restrictive.
- Hospitals are known as Managing Authorities. Local authorities are known as the Supervisory Bodies

2: Hospital to do list:

- Complete a capacity assessment to confirm the adult lacks capacity to consent to their admission, care and treatment.
- Send application (Form 1) for an Urgent and Standard Authorisation to the relevant Supervisory Body (this means the local authority where the adult normally resides)
- Inform the adult and their family of their rights under DoLS.

3: Things to consider and include on the Form 1:

- Adults address prior to being in hospital.
- Communication requirements.
- Any objections the adult is making towards their admission, care or treatment.
- Information on level of supervision/ methods of restraint being used.
- If chemical restraint is being used.
- If there are Safeguarding concerns around the adult.
- Any restrictions on family/ friends visiting.

6: Objecting

5(6) In determining whether or not P objects to something, regard must be had to all the circumstances (so far as they are reasonably ascertainable), including the following—

- (a) P's behaviour;
- (b) P's wishes and feelings;
- (c) P's views, beliefs and values.

The objection does not have to be 'reasonable' and the Mental Health Act will need to be used to safeguard the adult.

5: MHA and MCA DoLS Interface:

The MCA 2005, Schedule 1A (Part 1), paragraph 5 defines **Persons Ineligible to be deprived of liberty by the Act** when the Person objects to being a mental health patient etc. as follows:

5 (3) The first condition is that the relevant instrument authorises P to be a mental health patient.

(4) The second condition is that P objects—

- (a) to being a mental health patient, or
- (b) to being given some or all of the mental health treatment.

4: Whilst the Urgent DoLS authorisation is in place:

- Review and ensure any restrictive practices are proportionate and continue to be required.
- Review capacity as the patient receives treatment and care.
- **Update the supervisory body if any changes occur that means the authorisation may no longer be needed (regains capacity, discharged from the hospital).**
- The Supervisory body will assign for assessment when or if it is required.

