

DoLS 10 things you need to know about Deprivation of Liberty Safeguards:

1. The Deprivation of Liberty Safeguards (DoLS) are part of the Mental Capacity Act 2005 which says that someone lacks mental capacity to make a particular decision if they are unable to:

- a. understand information given to them;
- b. retain that information long enough to be able to make a decision;
- c. weigh up the information available and understand the consequences of the decision; or
- d. communicate their decision (this could be by any possible means).

2. The DoLS apply to people aged 18 or over who:

- a. have a mental health condition (includes dementia); and
- b. do not have the mental capacity to make decisions about their care or treatment.

3. The DoLS can only be used in a care home or hospital. In other settings the Court of Protection can authorise a deprivation of liberty.

4. The DoLS aim to ensure that someone is only deprived of their liberty in a safe and correct way, and that this is only done when it is in their best interests and there is no other way to look after them.



5. A recent court decision has confirmed that someone is deprived of their liberty when someone is:

- a. under continuous supervision and control; and
- b. not free to leave.

6. Care homes and hospitals are responsible for applying for an authorisation for the deprivation of liberty, known as a “standard authorisation”.

7. In an emergency, the hospital or care home may grant itself an “urgent authorisation”, but must apply for a standard authorisation at the same time. This urgent authorisation is usually valid for 7 days. Steps should be taken to consult with carers and family members.

8. DoLS cannot be used if a person has the mental capacity to make decisions. So this must be assessed.

9. The safeguards do not apply when someone is detained (‘sectioned’) under the Mental Health Act 1983.

Melissa Law

is a solicitor at GN Law in the Community Care and Court of Protection Department and advises on issues of mental capacity, best interests, deprivation of liberty and community care law. She is a mental health panel member and is accredited by the Law Society to represent mental health patients before First-tier Tribunals (Mental Health).



To contact Melissa and the CC & Cop team please call **020 8492 2290** or email: ml@gnlaw.co.uk

https://www.gnlaw.co.uk/our_people/melissa_law

10. Everyone who is subject to an authorised deprivation of liberty must have a ‘relevant person’s representative’ (RPR) who is:

- a. appointed by the supervisory body authorising the deprivation;
- b. often a family member or friend, other carer, or independent mental capacity advocate (IMCA); and
- c. able to gain access to documents about the decision and ask for a review of the decision, and should be informed if anything changes.