



## DoLs Glossary

### **Age Assessment**

An assessment of whether the relevant person has reached age 18.

### **Assessor**

A person who carries out a deprivation of liberty safeguards assessment.

### **Best Interest Assessor (BIA)**

An independent, trained, paid assessor who is appointed to undertake a number of DoLS assessments.

### **Bournewood Judgement**

The commonly used term for the European Court of Human Rights 2004 judgement in the case of HLK v the United Kingdom that led to the deprivation of liberty safeguards.

### **Capacity**

The ability to make a decision about a specific matter at the time the decision needs to be made. A legal definition is contained in section 2 of the Mental Capacity Act 2005.

### **Care Home**

A care facility registered under the Care Standards Act 2000.

### **Care Quality Commission**

The integrated regulator for health and adult social care.

### **Carer**

A person who provides unpaid care by looking after a friend or relative needing support because of sickness, age or disability.

### **Conditions**

Requirements that a supervisory body may impose when giving a standard deprivation of liberty authorisation after taking into account any recommendations made by the Best Interests Assessor.

### **Consent**

Agreement to a care plan or treatment regime. For consent to be legally valid the person giving it must have the capacity to make the decision, have been given sufficient information to make the decision and not have been under duress or inappropriate pressure.

### **Court of Protection**

The specialist court for all issues relating to people who lack capacity to make specific decisions.

### **Deprivation of Liberty**

A term used in the European Convention on Human Rights about circumstances when a person's freedom is taken away. Its meaning in practice is being defined through case law.

### **Deprivation of Liberty Safeguards**

Framework of safeguards under the Mental Capacity Act 2005 for people who need to be deprived of their liberty in their hospital or care home in their best interests for care or treatment and who lack the capacity to consent to the arrangements for their care or treatment.

### **Deprivation of Liberty Safeguards Assessment**

The six assessments that need to be undertaken as part of the standard deprivation of liberty authorisation process.

### **Eligibility Assessment**

An assessment of whether or not a person is rendered ineligible for a standard deprivation of liberty authorisation because the authorisation would conflict with requirements that are (or could be) placed on the person under the Mental Health Act 1983.

### **European Convention on Human Rights**

Convention drawn up within the Council of Europe setting out a number of civil and political rights and freedoms and setting up a mechanism for the enforcement of the obligations entered into by contracting states.

### **European Court of Human Rights**

Court to which any contracting state or individual can apply when they believe that there has been a violation of the European Convention on Human Rights.

### **Independent Mental Capacity Advocate (IMCA)**

An IMCA can be instructed to act on behalf of the relevant person if they are 'unbefriended'.

**Managing Authority (MA)**

This refers to the hospital or care home that accommodates the relevant person.

**Mental Capacity Act (MCA)**

A law that prescribes systems to support individuals who lack capacity to make some decisions and lays down that any decisions made for or on behalf of an individual who lacks capacity must be in his or her best interest.

**Mental Capacity Assessment**

An assessment of whether a person lacks capacity in relation to the question of whether or not they should be accommodated in the relevant hospital or care home.

**Mental Disorder**

Any disorder or disability of the mind (except dependence on drugs or alcohol).

**Mental Health Assessment**

An assessment of whether a person has a mental disorder.

**No Refusals Assessment**

An assessment of whether there is any other existing authority for decision-making for the relevant person that would prevent the giving of a standard deprivation of liberty authorisation. This might include any valid Advance Decision or valid decision by a deputy or donee.

**Persons Representative (PR)**

A person appointed to represent the relevant person in relation to Deprivation of Liberty Safeguards (DoLS).

**Qualifying Requirement**

Any one of the six qualifying requirements (age, mental health, mental capacity, eligibility, no refusals and best interests) that need to be assessed and met in order for a standard deprivation of liberty authorisation to be given.

**Relevant Person (RP)**

The person subject to an application under DoLS.

**Relevant Person's Representative**

A person (independent of the relevant hospital or care home) appointed to maintain contact with the relevant person and to represent and support them in all matters relating to the operation of the deprivation of liberty safeguards.

## **Restraint**

The use or threat of force to help carry out an act that the person resists. Restraint may only be used where it is necessary to protect the person from harm and is proportionate to the risk and seriousness of harm.

## **Restriction of Liberty**

An act imposed on a person that is not of such a degree or intensity as to amount to a deprivation of liberty.

## **Safeguarding of Vulnerable Adults (SOVA)**

A multi-agency process that protects vulnerable adults from harm and abuse.

## **Section 12 Doctor (Sec 12)**

A doctor trained in Mental Health who is appointed and paid to undertake a number of DoLS assessments.

## **Standard Authorisation (SA)**

This is granted by the supervisory body to 'deprive' the relevant person for up to 12 months. The managing authority must apply to the supervisory body when possible prior to any deprivation.

## **Supervisory Body (SB)**

The relevant local authority (for nursing homes) or primary care trust (for hospitals).

## **Unlawful Deprivation (UD)**

This is when the relevant person is deprived of their liberty without an authorisation in place.

## **Urgent Authorisation (UA)**

The managing authority is able to grant this authorisation when all the indicators for a standard authorisation are met. This can remain in place for up to seven days and the supervisory body is able to extend this for a further seven days under certain circumstances.



The Mental Capacity Act's five key principles apply equally to practice under the deprivation of liberty safeguards:

**1. We must begin by assuming that people have capacity**

*"A person must be assumed to have capacity unless it is established that he/she lacks capacity."*

**2. People must be helped to make decisions**

*"A person is not to be treated as unable to make a decision unless all practicable steps to help him/her to do so have been taken without success"*

**3. Unwise decisions do not necessarily mean lack of capacity**

*"A person is not to be treated as unable to make a decision merely because he/she makes an unwise decision."*

**4. Decisions must be taken in the person's best interests**

*"An act done or decision made under this Act for or on behalf of a person who lacks capacity must be done, or made, in his/her best interests."*

**5. Decisions must be as least restrictive of freedom as possible**

*"Before the act is done, or the decision is made, regard must be had to whether the purpose for which it is needed can be as effectively achieved in a way that is less restrictive of the person's rights and freedom of action."*

**Standard authorisations** can be issued by supervisory bodies but only when the requirements for the six statutory assessments are met.

Standard authorisations are the most common type of authorisation.

Wherever possible, they must be applied for in advance of a person being deprived of liberty and only after rigorous care planning methods have indicated that less restrictive measures cannot meet the person's needs.

A standard authorisation can last for up to 12 months, but deprivation of liberty should last only for as long as is necessary.

**Urgent authorisations** will be used when there is a need to deprive someone of their liberty immediately in their own best interests to protect them from harm. Managing authorities can issue urgent authorisations but they are valid for a maximum of seven calendar days only.

When issuing an urgent authorisation managing authorities must, if they have not already done so, simultaneously apply to their supervisory body for a standard authorisation to be issued within the period of the urgent authorisation.

If there are exceptional reasons for doing so a supervisory body may extend the duration of an urgent authorisation by up to seven calendar days (14 days in total except in the first month).

### **Timescales for authorisations**

From 1 May 2009 all assessments required for a standard authorisation must be completed within 21 calendar days and managing authorities may give themselves an urgent authorisation for an initial period of no more than seven calendar days.