Document Control

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Deprivation of Liberty Safeguards (DoLS) Policy and Guidance			
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CONTENTS

1. Purpose

The purpose of this policy is to ensure that the Trust and its employees discharge their obligations under the Deprivation of Liberty Safeguards 2007. It provides a reference framework for the DoLS compliance and aims to set out the processes and procedures that should be followed by Trust staff when providing care for a person who is, or may become, deprived of their liberty.

1.1. This policy is in line with and should be read in conjunction with the DoLS Code of Practice

1.2. Implementation of this policy will ensure that:

- All clinical staff are able to recognise when a patient is potentially being deprived of their liberty.
- All clinical staff are aware of how to assess the restrictions in place for a patient.
- Relevant clinical staff are aware of how to make a DoLS application if they believe a patient is being deprived of their liberty.
- Independent Mental Capacity Advocates are appointed appropriately
- The Trust is compliant with the CQC standards relating to the Deprivation of Liberty Safeguards.

2. Definitions

2.1. Advance decision

This is a decision made by an adult with capacity to refuse specific medical treatment in advance. The decision will apply at a future date when the person lacks the capacity to consent to or refuse the treatment specified in the advance decision. It has the same effect as a contemporaneous refusal of the specified medical treatment.

2.2. Best Interests

Any decisions made, or anything done for a person who lacks capacity to make specific decisions, must be in the person's best interests. There are standard minimum steps to follow when working out someone's best interests. These are set out in section 4 of the Act, and in the non-exhaustive checklist in 5.13.

2.3. Capacity

The ability to make a decision about a particular matter at the time the decision needs to be made. The legal definition of a person who lacks capacity is set out in section 2 of the Act

2.4. Conditions

Requirements that a supervisory body may impose when giving a standard deprivation of liberty authorisation, after taking account of any recommendations made by the best interests assessor.

2.5. Court of Protection

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

2.6. Decision Maker

Under the Act, many different people may be required to make decisions or act on behalf of someone who lacks capacity to make decisions for themselves. The person making the decision is referred to throughout the Code, as the 'decision maker', and it is the decision- makers responsibility to work out what would be in the best interests of the person who lacks capacity.

2.7. Deprivation of Liberty

Deprivation of liberty is 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.

2.8. Deprivation of Liberty Safeguards (DoLS)

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

2.9. Deprivation of Liberty Safeguards Assessment

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

2.10. Independent Mental Capacity Advocate (IMCA)

This is a person who supports and represents a person who lacks capacity to make a specific decision, where that person has no one else who can support them. They make sure that major decisions for a person who lacks capacity are made in accordance with the Mental Capacity Act 2005. IMCAs appointed under DoLS are required to have additional DoLS specific training. See DoLS Code of Practice 7.34 – 7.41 for details on the role of the DoLS IMCA

2.11. Lasting Power of Attorney (LPA)

This is a power of attorney created under the Mental Capacity Act 2005. It enables a person initially with capacity to appoint another person to act on their behalf in relation to decisions about the donor's financial and/or personal welfare (including healthcare) at a time when they no longer have capacity. An LPA must be registered with the Office of the Public Guardian before it can be used.

2.12. Relevant Person

A person who is, or may become, deprived of their liberty in a hospital or care home.

2.13. Restraint

The use or threat of force to undertake an act which the person resists, or the restriction of the person's liberty of movement, whether or not they resist. Restraint may only be used where it is necessary to protect the person from harm and is proportionate to the risk of harm.

2.14. Standard Authorisation

An authorisation given by a supervisory body, after completion of the statutory assessment process, giving lawful authority to deprive a relevant person of their liberty in the relevant hospital or care home.

3. Responsibilities

Role of Safeguarding Adults Executive Lead

The Safeguarding Adults Executive Lead is responsible for:

- Ensuring the Trust fulfils its responsibilities in protecting vulnerable adults within NDHT and in the wider community
- Ensuring that the Deprivation of Liberty Safeguards are fully implemented within the Trust, to ensure that the rights of persons lacking capacity are respected.

Non-executive and elected leads

- Champion & maintain focus on Deprivation of Liberty Safeguards

- Provide independent scrutiny
- Hold executive directors and Boards to account

Role of Safeguarding Adults Lead

The Safeguarding Adults Lead is responsible for:

- The Safeguarding Adults Lead has responsibility for ensuring the process and procedures are consistent for implementing the Deprivation of Liberty Safeguards.
- Attending local and regional Deprivation of Liberty Safeguards groups and Networks.
- Developing internal structures to provide assurance to the organisation that Deprivation of Liberty Safeguards issues are considered and dealt with in a consistent and effective way.
- Provide systems and structures to support Deprivation of Liberty Safeguards implementation e.g. procedures, training

Role of all staff in managerial positions

- Managers are responsible for the implementation of this policy within their department. They are responsible for ensuring all staff are aware of the policy guidelines at staff inductions.
- They should ensure that all staff involved in supporting patients who may be deprived of their liberty have access to appropriate training.

Role of the Clinicians/Health professionals

- The health professional carrying out the procedure or intervention or other situation when documenting and discussing consent is required is responsible for ensuring that consent to treatment is valid and that full discussions are recorded in the patient record.
- Where the patient may deprived of their liberty the health professionals must make a DoLS application

4. Overview of Deprivation of Liberty Safeguards (DoLS)

The Deprivation of Liberty Safeguards (DOLS) and the processes contained within this policy document apply to all patients that meet the following criteria:

- Where they are over the age of 18, and
- Where they are lacking the capacity to consent to the arrangements for their care or treatment, and
- Where they are receiving care or treatment within a hospital.
- Where they are receiving care where levels of restriction and restraint mean that they are under continuous supervision and control and are not free to leave.

- Where detention is not already authorised under the Mental Health Act.

4.1. What is a Deprivation of Liberty?

On 19 March 2014, the Supreme Court handed down a judgment in respect to an on-going Deprivation of Liberty Safeguards (DoLS) Case. The judgment is significant in the determination of whether arrangements made for the care and/or treatment of an individual lacking capacity to consent to those arrangements amount to a deprivation of liberty.

The key points from the Supreme Court judgment was a revised 'acid test' for deprivation of liberty. The Supreme Court has clarified that there is a deprivation of liberty for the purposes of Article 5 of the European Convention on Human Rights in the following circumstances:

- **The person is under continuous supervision and control AND**
- **Is not free to leave, AND**
- **The person lacks capacity to consent to these arrangements.**

The Supreme Court held that factors which are NOT relevant to determining whether there is a deprivation of liberty include the person's compliance or lack of objection and the reason or purpose behind being in hospital.

If a person is *subject to continuous supervision and control* AND they are *not free to leave*, then they are deprived of liberty and, if the person is unable or unwilling to consent to their situation, this should either be authorised (by the MHA, DoLS or via an order from the Court of Protection) or the person's care should be changed immediately to either reduce the level of supervision and control or to allow them to leave should they wish.

It is important to understand that if a person lacks capacity to consent to the supervision/control and inability to leave they may still be deprived of liberty even if they are 'compliant' and making no attempt to leave whatsoever. The Supreme Court said '*A gilded cage is still a cage.*'

Continuous supervision and control- currently not defined in law or in case law but the Supreme Court in March 2014 said "I believe that we should err on the side of caution in deciding what constitutes a deprivation of liberty." Therefore in situations where you are unsure whether or not you are providing 'continuous supervision and control', assume that you are and, if the person is also not free to leave, either issue an urgent DoLS authorisation, or request a MHA assessment if relevant.

A pragmatic way of answering the question is to ask whether the person(s) or body responsible for the individual have a plan in place which means that they need always broadly to know:

- where the individual is; and
- what they are doing at any one time.

If the answer to both questions is 'yes,' then it is suggested that this is a strong pointer that the individual is under continuous / complete supervision and control.

This is particularly so if the plan sets out what the person(s) or body responsible for the individual will do in the event that they are not satisfied that they know where the individual is and what they are up to.

Guidance also suggests that it is clear that the test for completeness / continuity will also be met without every decision being taken for the individual. In other words, the individual may well be able to take quite a number of decisions as to their own activities (for instance what they would like to have for breakfast) but still be subject to complete or continuous supervision and control if the individual is in an overall structure in which aspects of decision-making are being allowed to them at the discretion of those in control of their care.

Free to leave- again not defined in law or case law. Importantly whether or not P is trying to leave is irrelevant. Freedom to leave is not judged by whether the person is actually asking to leave but rather whether if they did ask to leave, staff would in fact allow them to do so.

It is vitally important not to conflate *"freedom to leave"* with *"ability to leave"* or *"attempts to leave."*

In this context the focus should be upon the actions (or potential actions) of those around the individual, rather than the individual themselves. In other words, the question may well be a hypothetical one – if the person manifested a desire to leave (or a family member properly interested in their care sought to assist them to leave), what would happen?

If the answer is that steps would be taken to enable them to leave, then that points in one direction; if the answer is that steps would be taken to prevent them leaving that points in the other. Crucially, it would not matter in this regard if the steps to prevent the person leaving were said to be in their best interests.

Approaching matters on that basis helps make clear that, for example, whether not there are locks or keypads on the doors is not the answer. It is what would be done by the staff with the ability to unlock the door if the individual were to seek to open that door that is important.

What is now NOT relevant in identifying a DoL

Previous considerations that should **not** influence the decision as to whether a deprivation of liberty is occurring include:

1. the person's compliance or lack of objection to their placement – if they lack capacity they cannot consent to their placement so apparent compliance cannot be taken into account;

2. the relative normality of the placement – this applies no matter how severe their disability i.e. just because someone would need constant supervision and support to live their life, does not mean such factors should influence the objective decision about whether a deprivation of liberty is occurring;

3. the reason or purpose behind their placement – no matter how well-intentioned the restrictive measures are, this should not have a bearing on the objective decision about whether a deprivation of liberty is occurring.

4.2. Framework for implementing Deprivation of Liberty Safeguards (DoLS)

The DoLS framework consists of a Supervisory Body and a Managing Authority.

4.2.1 The Supervisory Body

The Local Authority is the supervisory body responsible for managing the applications and overview of the DoLS. Therefore Devon County Council is the Supervisory Body covering the Managing Authorities (Hospitals) of NDHT.

As the supervisory body Devon County Council is responsible for considering a deprivation of liberty request received from a managing authority, commissioning the statutory assessments and, where all the assessments agree, authorising deprivation of liberty. The Supervisory Body will maintain a register of granted authorizations.

4.2.2 The Trust as a Managing Authority

Under the terms of the DoLS Code of Practice, all care homes and hospitals are classed as a Managing Authority. Northern Devon Healthcare Trust and its hospitals (Acute and Community) are regarded as a Managing Authority.

When a patient lacks capacity and is receiving care where levels of restriction and restraint ***could*** amount to a deprivation of liberty, the Trust must apply for a ***Standard Authorisation*** from the Supervisory Body.

Where deprivation of liberty needs to commence before a Standard Authorisation can be obtained, the Trust is able to grant themselves ***Urgent Authorisation*** whilst applying for a Standard Authorisation.

4.2.3 Key responsibilities of the Trust in its role as a Managing Authority

- To ensure that care is delivered in as least restrictive means as viable that is proportionate and necessary to prevent harm to any patient.
- To ensure that consideration is given to the mental capacity of all patients and their ability to consent to services which are provided and whether care actions are likely to result in a deprivation of liberty.
- To ensure staff are aware of the MCA and DoLS framework
- To ensure that procedures for an application for an urgent and standard authorisations are followed.
- To ensure a new authorisation is applied for prior to the expiry of the current one
- To maintain records and ensure that all relevant staff are made aware of whether an authorisation is granted or refused.
- To maintain a system to keep copies of all DoLS forms they complete and receive

4.3. Use of Restraint

Restraint covers a wide range of actions, Section 6(4) of the Mental Capacity Act states that someone is using restraint if they:

- Use force – or threaten to use force – to make someone do something that they are resisting, or
- Restrict a person's freedom of movement, whether they are resisting or not.

Any action intended to restrain a person who lacks capacity will not attract protection from liability unless the following two conditions are met:

- The person taking action must reasonably believe that restraint is *necessary* to prevent *harm* to the person who lacks capacity, and
- The amount or type of restraint used and the amount of time it lasts must be a *proportionate response* to the likelihood and seriousness of harm.

See paragraphs 6.44–6.48 of the MCA Code of Practice for more explanation of the terms *necessary, harm* and a *proportionate response*. Trust staff should also refer to the Restraint Policy:

In addition to the requirements of the MCA, the common law imposes a duty of care on healthcare and social care staff in respect of all people to whom they provide services. Therefore if a person who lacks capacity to consent is presenting with challenging behaviour, or is in the acute stages of illness causing them to act in way which may cause harm to others, staff may, under the common law, take appropriate and necessary action to restrain or remove the person, in order to prevent harm, both to the person concerned and to anyone else.

However, within this context, the common law would not provide sufficient grounds for an action that would have the effect of depriving someone of their liberty (see below and paragraphs 6.49–6.53 of the MCA).

Using excessive restraint could leave you liable to a range of civil and criminal penalties. For instance, it may be necessary to accompany someone when going out because they cannot cross roads safely, but it may be unreasonable for you to stop them from going outdoors all together.

4.4. Deprivation of Liberty Safeguards (DoLS) process

The DoLS process can be summarised in the below five steps:

STEP 1:

In the first instance, an assessment of the patient's mental capacity must be undertaken to determine whether or not there is any lack of mental capacity to consent to being in hospital and to receiving care or treatment. Refer to the Mental Capacity Act policy for guidance on conducting a mental capacity assessment and template form.

STEP 2:

If a patient does lack capacity to consent to being in hospital and to receiving care or treatment staff should apply the 'acid test' i.e. is the person is under continuous supervision and control and is not free to leave. The Deprivation of Liberty identification tool can be used to help identify a potential DoLS.

STEP 3:

Staff should address any restrictions on the patient by attempting to minimise them and ensuring that decisions are taken with the involvement of the relevant person and their family, friends and carers. The processes for staff to follow are:

- Make sure that all decisions are taken (and reviewed) in a structured way, and reasons for decisions recorded.
- Follow established good practice for care planning.
- Make a proper assessment of whether the person lacks capacity to decide whether or not to accept the care or treatment proposed, in line with the principles of the Act (see chapter 3 of the main Code for further guidance).
- Before admitting a person to hospital in circumstances that may amount to a deprivation of liberty, consider whether the person's needs could be met in a less restrictive way.
- Any restrictions placed on the person while in hospital must be kept to the minimum necessary, and should be in place for the shortest possible period.
- Take proper steps to help the relevant person retain contact with family, friends and carers. Where local advocacy services are available, their involvement should be encouraged to support the person and their family, friends and carers.
- Review the care plan on an ongoing basis. It may well be helpful to include an independent element, possibly via an advocacy service.

STEP 4:

If a potential deprivation of liberty has been identified and the care regime can't be derestricted then a DoL application must be completed using the DoLS form in appendix 3. They should be completed electronically where possible and MUST be emailed to: dols@devon.gov.uk AND ndht.dols@nhs.net

Urgent Authorisations

If the relevant person is **currently being DoL** then an **urgent authorisation** must be made by completing Department of Health Standard Form 1 template available in Appendix 3 and complete the full form signing page 2 and 6.
To apply for an **urgent authorisation** to deprive someone of their liberty, the decision must be made jointly with the clinical lead and the Senior Nurse or Ward Manager and Form 1 to be completed and sent to the Devon DoLS team (see below for address). This must be documented in the patient's notes and the patient and carers/family should be notified. For a full description please see **Chapter 6 of the Mental Capacity Act 2005 Deprivation of Liberty Safeguards Code of Practice**.

Urgent Authorisations gives the ward authority to deprive an individual of their liberty when the person is already in the circumstances that apply to the safeguards. It lasts for up to 7 days**. In exceptional circumstances this can be extended for up to an additional seven day period (**see paragraphs 6.20 -6.28 of the DLS CoP). Its purpose is to give the Supervisory Body time to carry out the required assessments for a **Standard Authorisation. As such any Urgent Authorisation must be**

followed by a Standard Authorisation request to the Supervisory Body (DoLS CoP 6.1). This is now all contained on form 1.

Standard Authorisation

This is requested by the Managing Authority from the Supervisory Body if the relevant person is at risk of DoL in the next 28 days, **in these circumstances complete Standard Form 1 pages 1-5 and only sign page 4.**

A **Standard Authorisation** is granted if the criteria of the 6 qualifying assessments are met. The assessment process for a standard authorisation must be completed within 21 calendar days.

A Standard authorisation may last for up to a year. **Conditions** may be attached to the Authorisation which seek to mitigate the effects of the deprivation of liberty or end it altogether. The Managing Authority is responsible for ensuring those conditions are complied with.

STEP 5:

Review and monitoring the DoLS authorisation together with any conditions set by the supervisory body. See section 7 below for specific responsibilities in regards to monitoring and requesting reviews.

The above process is summarized in a flowchart in Appendix 1

To talk through a potential DoLS case or for advice on the application process contact the Devon County Council DoLS service on 01392 381676

4.5. Other Department of Health DoLS forms

These forms are nationally developed and there are four forms that Northern Devon Healthcare Trust staff must be aware of and may be required to complete available on:

http://www.adass.org.uk/mental-health-Drugs-and-Alcohol/public-content/New-DoLS-Forms/

Form 1	To request an urgent and/or standard authorisation
Form 2	Further authorisation request
Form 7	Suspension of a standard authorisation
Form 12	Inform Coroner

4.6. Providing patient support throughout the process

The NDHT hospital must tell the Devon County Council DoLS Team if the person involved has no family member or non-professional carer to support them through the assessment process. Devon County Council DoLS Team must then appoint an Independent Mental Capacity Advocate (IMCA), under section 39A of the Act, to support them. (This is often known as a section 39A IMCA.)

The Devon County Council DoLS Team and the NDHT hospital must work together to make sure the person and their representative:

- Understand the MCA DoLS process.
- Know their rights and entitlements.
- Receive the right support once the authorisation process begins and after the authorisation has been granted or denied.

4.7. What happens when a DoLS authorisation is granted?

Not every assessment process will result in an authorisation. However, once a person in a hospital or care home has a DoLS authorisation, a relevant person's representative (RPR) must be appointed to support them and look after their interests (the Devon County Council DoLS Team will appoint the RPR).

The NDHT hospital (together with Devon County Council DoLS Team) must:

- Make regular checks to see if the authorisation is still necessary.
- Remove the authorisation when it is no longer necessary.
- Provide the person's RPR with information about the care and treatment of the person who has a DoLS authorisation.

4.8. What happens when a DoLS authorisation is turned down?

If an authorisation request is turned down, the managing authority must not deprive the person of their liberty and will need to take alternative steps. The steps will depend on the reason the authorisation was turned down.

- It may be appropriate for the person to be detained under the Mental Health Act 1983.
- If the person is under 18, the Children Act 1989 may be used for meeting their care requirements.
- There may be ways to support the person in a less restrictive manner that avoids a deprivation of liberty.
- Often, people make valid decisions about refusing care or treatment when they are still capable of doing so or there are valid refusals by attorneys or deputies appointed on their behalf. If the managing authority wishes to challenge these decisions, it can apply to the Court of Protection.
- If the deprivation of liberty is not in the person's best interests, NDHT Hospital (together with the commissioner of care) needs to make sure that the person is supported in a way that avoids deprivation of liberty.
- If the person has the capacity to make decisions about their own care, the managing authority must help them to make their own decisions.
- If the relevant person is not being deprived of liberty, the managing authority should continue to support them without taking further action.

4.9. What happens if an application is made but the Local Authority have not come out to assess the patient?

If the 7 days of the urgent authorisation request is nearing completion the extension section of Form 1 must be completed and sent to the two email addresses in STEP 4 above.

It is not lawful to "re-grant" an Urgent Authorisation after the 14 day period has expired. Therefore if the point is reached where 14 days has then passed since the original application it is vital that there is an up to date mental capacity assessment and that the DoL situation is kept under review. I.e. the continuous supervision and control and not being free to leave elements are still necessary, proportionate and in the patients best interests. This should be evidenced in the patient's notes. Local Authorities have seen large increases in DoLS applications; therefore they are managing applications through a priority/triage basis. If the person's situation has changed or if there are specific factors that increase the risk associate with the persons care then notify the DCC DoLS team immediately. These factors could include; the patient is particularly agitated, violent or aggressive, family are threatening to discharge the patient against professional judgement or there are high levels of restraint being used. The ward should ensure that they continue to escalate the urgency of the situation to the Supervisory Body and keep a clear record of all communications

If you feel that the assessments are not being prioritised by the Local Authority or the situation is high risk then escalate immediately to the Matron/Senior Nurse and contact the Trust Safeguarding Adult Lead as legal advice may need to be sought depending on the circumstances of the case.

4.10. When should a standard authorisation be reviewed?

The authorisation review is a formal process that takes a fresh look at the person who has been deprived of their liberty. A standard authorisation can be reviewed at any time. The NDHT Hospital ward must make regular checks to see if the deprivation of liberty is still needed. A review must be triggered if there has been a change in the relevant person's situation that requires the deprivation of liberty authorisation to be altered, temporarily suspended or terminated altogether.

The NDHT Hospital ward must also inform the Devon County Council DoLS Team if there has been a change in the situation of a person who has been deprived of their liberty. This is especially important if the change in circumstances means that the person no longer meets one or more of the six qualifying requirements.

There is a standard form that the Hospital can use to request a review or if the DoLS has expired (DoH DoLS Form 2). The reasons for a review may include:

- Evidence that the person no longer meets either the age, no refusals, mental capacity, mental health or best interests authorisation requirements.
- The fact that the person no longer meets the eligibility requirement because they are subject to detention or treatment under the terms of the mental health act 1983 instead of the MCA DoLS.

- Changes in the person's situation (e.g. a move to a different ward or hospital within the NDHT).
- The fact that the person still meets all six qualifying requirements, but for different reasons than those set out in the original authorisation.

The Devon County Council DoLS Team makes the arrangements necessary to review any or all of the six qualifying requirements as required. The Devon County Council DoLS Team must also inform the hospital, the relevant person, the RPR and any section 39A IMCA involved about the outcome of the review.

4.11. Short-term suspensions of standard authorisations

It may be necessary to suspend an authorisation for a short period of time. This could happen, for example, if the relevant person fails to meet the eligibility requirement because they are temporarily subject to provisions under the Mental Health Act 1983. In such cases, the hospital must tell the Devon County Council DoLS Team, which will suspend the DoLS authorisation. There is a standard form for the Hospital to use for this purpose (DoH DoLS Form 7).

If the relevant person becomes eligible for an MCA DoLS authorisation again within 28 days, the Hospital must tell the Devon County Council DoLS Team, which will reinstate the authorisation. Again, there is a standard form for the managing authority to use for this purpose (DoH DoLS Form 7).

If the Hospital does not let the Devon County Council DoLS Team know that the person is eligible again within the 28 days, then the authorisation will cease automatically at the end of this period. The Hospital would then need to seek a new authorisation if deprivation of liberty was to continue.

4.12. What happens when an authorisation ends?

Deprivation of liberty authorisations should last for the shortest time possible and are valid for a maximum of 12 months. The duration of an authorisation will vary from person to person depending on their individual circumstances. Typically, the Best Interests Assessor will recommend the period of time required for a specific authorisation.

When an authorisation comes to an end, the Hospital cannot lawfully continue to deprive someone of their liberty. However, if the Hospital thinks that the person involved still needs to be deprived of their liberty for their own protection, they can request a new standard authorisation. A new authorisation process will then be triggered using FORM 2. However, the relevant person may not need an IMCA at the time of assessment as they will already have an RPR in place.

4.13. Unauthorised deprivation of liberty (Third Party Referrals)

The NDHT staff must make every effort to decide if a person in hospital is being deprived of their liberty. However, if a member of staff, family member, carer, or any other third party suspects unauthorised deprivation of liberty, the law entitles them to tell the Hospital or Care Home (Managing Authority). If the managing authority fails to satisfy their concerns, the person can ask the supervisory body to investigate. This is particularly relevant for community staff who visit care homes.

Staff have a duty to raise any concerns about a potential DoL with senior staff within that home, if this is not acted on appropriately within 24 hours by the provider then the Devon County Council DoLS team should be notified.

4.14. DoLs in a persons own home or supported living

Following the Supreme Court decision of 19 March 2014, the accommodation settings in which a person might be deemed to be deprived of their liberty include, but are not limited to, 'domestic settings' such as:

- Supported housing (where support is provided on a 24/7 basis)
- Shared lives and adult placement schemes ('Domestic Settings')
- Post-18 residential colleges

The 'acid test' for whether those arrangements amount to a deprivation of liberty is as follows:

- Is the individual subject to continuous supervision and control, and
- Is the individual NOT free to leave the placement, and
- Is the individual unable to consent to such arrangements

If the answer to all of the above questions is 'Yes', then the person is deprived of their liberty and authorisation must be sought from the Court of Protection for that to continue in each case. A deprivation of liberty that does not have the appropriate authorisation will be unlawful.

In relation to being "free to leave", Lord Justice Munby gave this guidance: "When I refer to leaving X home or leaving Y home I do not mean leaving for the purpose of some trip or outing…I mean leaving in the sense of removing himself permanently in order to live where and with whom he chooses…"

If you identity such a scenario you should escalate it to the organisation arranging or funding the care that amounts to a DoL. If in doubt notify the DCC DoLS team and the Trusts Safeguarding Adult Lead.

4.15. Moving patients who are under a DoLS authorisation

If a person who is subject to a standard authorisation moves to a different hospital or care home, new hospital or care home must request a new standard authorisation. The application should be made **before** the move takes place, using Form 1.

Following any change of Ward within a hospital consideration needs to be given as to the change in circumstances of the care provided. If the care regime is different in terms of the level of restrictions in place then the receiving ward would need to request (to the Devon County Council DoLS service – same route as a DoLS application) for a review. This is requested by completing FORM 2.

If a ward decides that a deprivation of liberty authorisation is no longer necessary then they must end it immediately, by adjusting the care regime or implementing whatever other change is appropriate. The managing authority should then apply to the Supervisory Body (Devon County Council DoLS Service) to review the authorisation using FORM 2 as above).

If an emergency transfer is required, once the patient has stabilised there should be a review of the patients care plan to ascertain whether a DoLS is required in the new setting, if it is, a new DoLS application should be made. If the patient is not returning to the original site where the DoLS was in place and no longer requires it then the

DCC DoLS team should be notified so that the DoLS authorisation can formally cease. If the patient moves temporarily then the DoLS can be suspended, see section 5.11 above.

4.16. Patients who die whilst a DoLS authorisation is in place

In a review of the Coroners and Justice Act 2009 from Monday 3 April 2017 coroners will no longer have a duty to undertake an inquest into the death of every person who was subject to an authorisation under the Deprivation of Liberty Safeguards (known as DoLS) under the Mental Capacity Act 2005.

In these cases an inquest will still be required if the person died before Monday 3 April 2017. However, for any person subject to a DoLS authorisation who dies on the 3rd, or any time after, their death need not be reported to the coroner unless the cause of death is unknown or where there are concerns that the cause of death was unnatural or violent, including where there is any concern about the care given having contributed to the persons death.

Any person with any concerns about how or why someone has come to their death can contact the coroner directly. This will not change where a person subject to a DoLS authorisation. What will change is that the coroner will no longer be duty bound to investigate every death where the deceased had a DoLS in place.

For more information on coroner services please see the Coroner Services Guides at this linkhttps://www.gov.uk/government/publications/guide-to-coroner-services-and-coroner-investigations-a-short-guide

In accordance with Section 1(2) of the Coroners & Justice Act 2009, before the doctor has signed the Death Certificate, **the Managing Authority (NDHT) must send a copy of** FORM 12 **to the local Coroner's office.**

*If the patient was under a DOLS in the community (e.g. care home) and subsequently dies in hospital before the authorisation is cancelled a notification must to be made to the Coroner. However, if the NDHT ward has made a DoLS application to the Local Authority and it has not been authorised then the Coroner does not regard these deaths as reportable, therefore a notification is not required.

Note on Verification of death.

Nurses who have had relevant training to verify (confirm) death in cases of expected death are still able to do so even if a DoLS in in place but a notification to the coroner is still required by the care home or hospital before a death certificate is signed.

Patients receiving life sustaining treatment and DoLS.

Ferreira v Coroner of Inner South London

This is an important decision which has practical ramifications for DoLS in intensive care and life-saving treatment in hospital, but also possibly hospices and other hospital settings. The court decided that this context was entirely different to that in Cheshire West and therefore, the "acid test" did not apply if the treatment was materially the same as would be given to anyone

There is no deprivation of liberty resulting from the administration of life-saving treatment *"so long as [it is] rendered unavoidable as a result of circumstances beyond the control of the authorities and is necessary to avert a real risk of serious injury or damage, and [is] kept to the minimum required for that purpose". In my judgment, what these qualifications mean is in essence that the acute condition of the patient must not have been the result of action which the state wrongly chose to inflict on him and that the administration of the treatment cannot in general include treatment that could not properly be given to a person of sound mind in her condition according to the medical evidence. (paragraph 89 of Ferreira Judgment quoting the Austin judgment)*

"in general no need in the case of physical illness for a person of unsound mind to have the benefit of safeguards against the deprivation of liberty where the treatment is given in good faith and is materially the same treatment as would be given to a person of sound mind with the same physical illness." (para 93)

Summaries: http://www.39essex.com/cop_cases/r-ferreira-v-hm-senior-coroner-for-inner-south-london/

http://www.bondsolon.com/landmark-judgment-on-deprivation-of-liberty-in-hospitals.aspx

http://www.mentalcapacitylawandpolicy.org.uk/deprivation-of-liberty-in-intensive-care-the-court-of-appeal-decides/

Unofficial summary:

A DoLS application is not required in hospitals if….

- ✓ The purpose of the admission/treatment is for a physical problem

  AND
- ✓ The treatment is unavoidable as a result of circumstances beyond the control of professionals

  AND
- ✓ The treatment is necessary to avert a real risk of serious injury /damage

  AND
- ✓ The treatment is the same as would be given to a person with the same physical condition who does not have an impairment of the mind (any difference in the treatment due to the impairment is not substantial)

5. Standards for record keeping

All issues relating to Mental Capacity Assessments and Deprivation of Liberty Safeguards must be recorded in the patient's notes and all relevant professionals must be made aware of any authorisations in place. All record keeping must be in line with organisational policies and professional guidelines. Copies of requests and responses from the Supervisory Body should always be kept in the patient's notes. Review dates and timescales for granted authorisations must be displayed clearly in

the patient notes and handed over should the patient move from one area/ward to another.

Care planning documentation must be reviewed to ensure it incorporates a process to consider whether a person has capacity to consent to the care/treatment and if a deprivation of liberty may be required. Care plans must also include any authorisation of deprivation of liberty and have review dates as part of the care plan.

6. Training requirements

If you are patient facing you will need to at least have completed the level 2 safeguarding training (e-learning) which also covers MCA and DoLS. If you are a registered professional (particularly those in a band 6/7 leadership role) you will be required to also complete the level 3 (Practitioner level) which a full face to face day and incorporates Safeguarding, MCA and DoLS. Both of these courses are access via STAR

Signed records must be kept of all training undertaken in the Trust. These records will be held centrally and reported Trust wide through ESR records. Individuals are encouraged to keep a copy of this in their portfolio.

On updating the Electronic Staff Record, line managers will be notified of all non-attenders, further detail on booking and reporting processes are contained within Training Policy.

7. Process for Implementation and Monitoring Compliance and Effectiveness

This policy and its implementation will be monitored through the Trust's Safeguarding Adults Board. This Board is chaired by the Executive Lead for Safeguarding Adults.

Within Northern Devon Healthcare Trust, the Director of Nursing has executive responsibility for Safeguarding Adults and reports to the Quality Assurance Committee and the Trust Board. The Director of Nursing chairs the Safeguarding Adults Board. The Safeguarding Adults Lead reports to the Assistant Director of Nursing and is a member of the Local Safeguarding Adults Group and also the Devon Safeguarding Adults Board. All line managers have a responsibility to ensure the DoLS Policy is followed by staff that they directly manage. Where non-compliance is identified, support and advice will be provided to improve practice.

7.1. Standards/ Key Performance Indicators

Key performance indicators comprise:

- Percentage of staff completing DoLS training
- Number of DoLS applications to Devon County Council DoLS Team

Percentage of DoLS applications authorised

8. Equality Impact Assessment

8.1. The author must include the Equality Impact Assessment Table and identify whether the policy has a positive or negative impact on any of the groups listed. The Author must make comment on how the policy makes this impact.

Table 1: Equality impact Assessment

Group	Positive Impact	Negative Impact	No Impact	Comment
Age	X			
Disability	X			
Gender			X	
Gender Reassignment			X	
Human Rights (rights to privacy, dignity, liberty and non-degrading treatment), marriage and civil partnership	X			
Pregnancy			X	
Maternity and Breastfeeding			X	
Race (ethnic origin)			X	
Religion (or belief)			X	
Sexual Orientation			X	

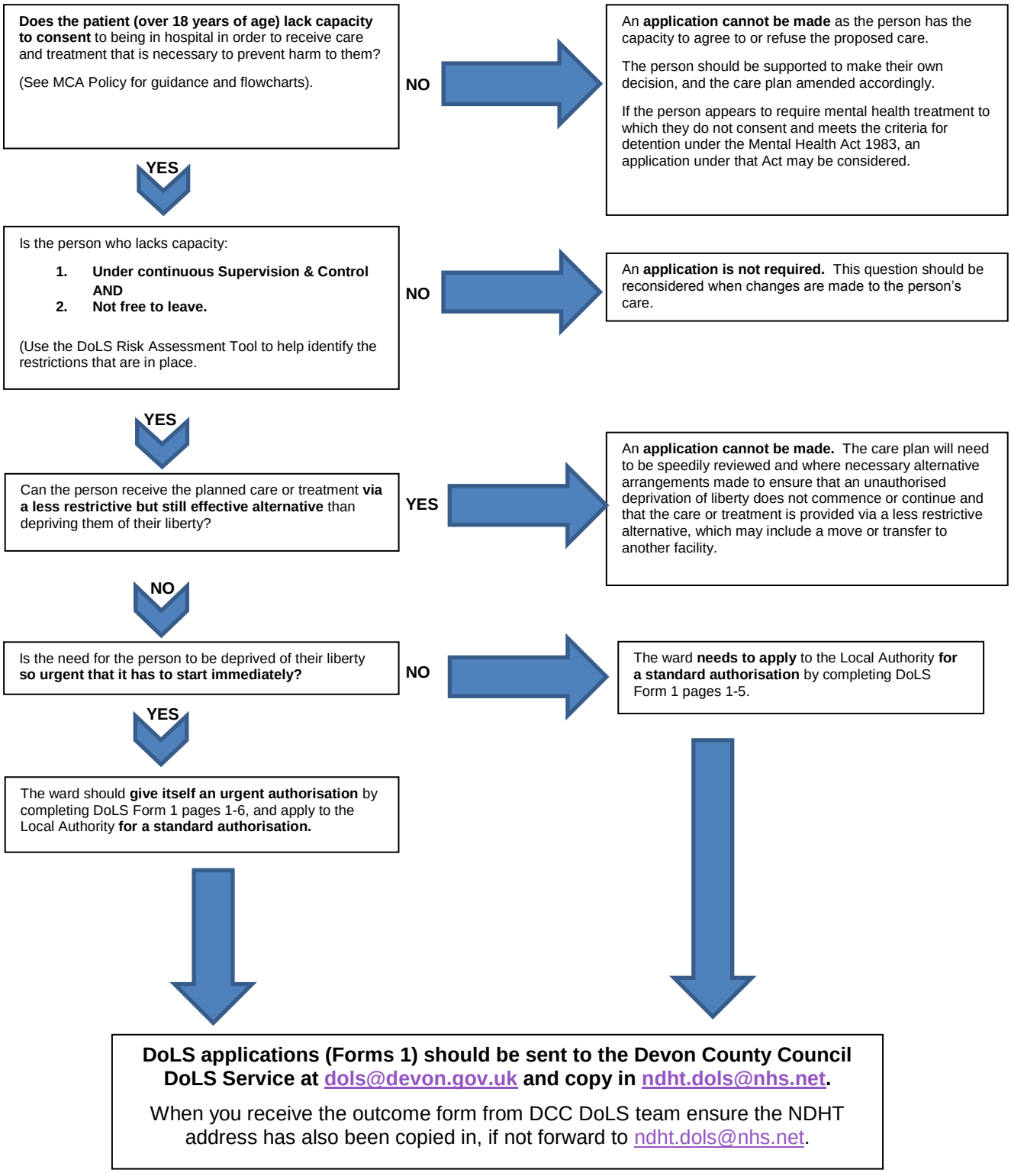
9. References

- Deprivation of Liberty Safeguards Code of Practice
- Devon County Council Multi-agency Mental Capacity Practice guidance
- Mental Capacity Act Code of Practice
- The Care Quality Commissions Fundamental Standards
- Law Society DoLS Guidance
- ADASS DoLS Forms and guidance

10. Associated Documentation

- Incident Management and Investigation Policy
- Maintaining Patients' Privacy and Dignity
- Mental Capacity Act policy
- Restraint policy
- Professional Codes of Conduct (E.g. GMC, NMC, HPC)
- Whistle Blowing policy
- Disciplinary Policy

Appendix 1: DoLS flow chart



DoLS applications (Forms 1) should be sent to the Devon County Council DoLS Service at dols@devon.gov.uk and copy in ndht.dols@nhs.net.

When you receive the outcome form from DCC DoLS team ensure the NDHT address has also been copied in, if not forward to ndht.dols@nhs.net.

Appendix 2(a): DoLS Identification tool

Appendix Patient Identification Label	**DEPRIVATION OF LIBERTY IDENTIFICATION TOOL**

The objective of this tool is to assist in identification and documentation of a potential Deprivation of Liberty and prompt the necessary action; it does not replace policy and should be used alongside the Deprivation of Liberty Safeguard Guidance and Mental Capacity Act Practice Guidance. This tool is designed to support your clinical judgement. Please complete all sections and sign the outcome section. Use a new DoL identification tool on each assessment. Determination of deprivation is not about the physical environment, but about the impact of the environment and of the care given, on each individual.

MENTAL CAPACITY ASSESSMENT – for a detailed assessment of capacity please refer to the Mental Capacity Assessment form. The below is a prompt to check that the patient lacks capacity before progressing with DoLS

Step 1. Is there reason to believe that the patient may lack mental capacity? i.e. is there an impairment or disturbance in functioning of mind or brain?	**YES / NO**
Step 2. Does the person lack the capacity to make their own decision about whether they should be accommodated in this hospital for the purpose of being given the proposed care and/or treatment? To assess capacity answer the questions below and then indicate Yes or No in the box to the right, if you answer NO to any of the 4 questions below then the person is deemed as lacking capacity. If someone has capacity DoLS do not apply.	**YES / NO**
Is the patient able to understand information related to the decision?	YES / NO
Is the patient unable to retain the information relevant to the decision?	YES / NO
Is the patient unable to use or weigh that information as part of the process of making the decision?	YES / NO
Is the patient unable to communicate their decision?	YES / NO

CONSIDERING RESTRICTIONS

There are two parts to the new definition of what is considered a DoL, and both must exist together for a situation to be a deprivation of liberty. If a patient who lacks capacity is subject to **continuous supervision and control AND they are not free to leave**, then the requirements are met to make a DoLS application.

The below sets out some questions and prompts to help identify whether the above criteria is met. Mark yes or no to the questions and add to the comments column.

Questions/prompts		**Comments**
Is there a plan in place which means that staff need always broadly to know: • where the individual is; and • what they are doing at any one time?	**Y / N**	
Is the use of the enhanced observation policy in place? Is so, what is the frequency and intensity of observation and monitoring levels? E.g. 1-1 support in place hourly checks or 24/7 observation	**Y / N**	

Is there continuous control on the person's movements? I.e. bed rails, locked doors, pressure mats, side room, catheter bag attached to bed, patient being placed in a chair and being unable to move from the chair without assistance.	**Y / N**	
Is there continuous control on the person's behaviour? I.e. is chemical restraint often used or is physical restraint regularly applied and for prolonged periods?	**Y / N**	
Is continuous supervision and control in the patient's best interest, necessary and proportionate? I.e. no alternatives to the level of continuous supervision and control.	**Y / N**	
Is there a requirement that the patient does not leave the ward, accompanied by a plan that, if he/she does he/she will be returned to the ward.	**Y / N**	
Is there conflict with the person or their family regarding care. E.G. are family requesting discharge against professional judgment?	**Y / N**	
If the person manifested a desire to leave (or a family member properly interested in their care sought to assist them to leave) steps would be taken to prevent them leaving	**Y / N**	

DoLS Identification Outcome

Overall, based on the above assessment do you feel that the patient is under continuous supervision and control and not free to leave? *As each patients circumstances are different your answer below will depend on whether the individuals circumstances as well as the number of 'Y's' you've highlighted in above assessment highlight continuous supervision and control and not free to leave.*
No ⟶ Not a DoL – continue to monitor situation if level of supervision and control changes review this assessment
Yes ⟶ You must make an application for DoLS using the nationally agreed forms.

Name of Assessor: …… Signature: ……
Date:……Time……

What to do if you feel you have identified a potential Deprivation of Liberty

Check: Is what is happening with respect to the care regime for the person:
1. In the person's own best interests to protect them from harm?
2. A proportionate response to the likelihood and seriousness of the harm? **And**…….
3. Is there is not a less restrictive alternative?

Remember applying for a Deprivation of Liberty Safeguard is a positive thing; **it is an additional protection for the person and the staff caring for the patient.**

Devon County Council have a Deprivation of Liberty Safeguards information line for queries relating to the safeguards and can talk through any potential applications and give advice - **01392 381676.**

To make an application for someone who you believe is **currently** being deprived of their liberty in a Northern Devon Healthcare Trust hospital you must complete **Form 1 pages 1-6** below. If you are **planning** on depriving someone in the next 21 days then you must complete **Form 1 pages 1-5 only**.

If you have identified a possible DoL in a **care home or another provider** you should raise the issue with the manager of the provider and if they do not take reasonable action within 24hrs then contact the DoLS team - **01392 381676.**

Appendix 2(b): Deprivation of Liberty Risk Assessment Tool Guidance and Case Study

What is the tool for?

The objective of this tool is to link the risk assessment process with a clearly documented clinical decision regarding the identification of a potential Deprivation of Liberty and take the

necessary action; it does not replace policy and should be used alongside the Deprivation of Liberty Safeguard Guidance and Mental Capacity Act Practice Guidance. This tool is designed to support your clinical judgment. Please complete all sections and sign the Statement of Risk. Use a new risk assessment tool on each assessment. Determination of deprivation is not about the physical environment, but about the impact of the environment and of the care given, on each individual.

Who should complete it?

The person completing the tool needs to have an understanding of the DoLS legislation and therefore MUST have at least completed the DoLS e-learning but ideally should have attended the practitioner level 3 training. If a potential DoL has been identified the ward manager and/or matron should always be informed.

When should it be completed?

If you have an inpatient in hospital (Acute or Community) over the age of 18 years who lacks the mental capacity to understand why they being kept in hospital for their care/treatment AND you suspect there are indications that:

- the individual subject to continuous supervision and control, and
- the individual NOT free to leave the placement, and
- the individual unable to consent to such arrangements

How will I know that I need to take further steps?

The tool purposely does not end up with a score as the DoLS legislation does not support this approach. The idea is that by completing the tool staff will be prompted to think about the restrictions that are in place and whether they are in the patient's best interests and the least restriction option. It is not just the number of restrictions and physical environment, but about the impact of the environment and the care given, on each individual. Therefore, if having completed the tool there is a feeling that there are medium to high risks of a DoL then you should phone the DoLS service who will talk you though details and provide advice. If ever in doubt, always make the call and document the outcome but it you should always err on the side of caution and make a DoLS application. If you are still unsure then contact the Trust Safeguarding Adult Lead.

What if I have identified a high risk DoL case?

If you have completed the tool and you think you are currently depriving a patient of their liberty then you should immediately complete the Department of Health Form 1. This protects the patient and the staff in ensuring that the care regime is part of a lawful process. It is also important to notify the DoLS service so they are aware that an application is on its way.

The Law Society guidance contains many examples of what should and should not be considered a DoL. The below case studies are just a couple of them.

Case Study 1: Acute Ward Deprivation of Liberty

Mrs Jones is an 80 year old lady, who lives on her own in a semi-detached house. One evening her neighbours notice the smell of burning. Not finding anything in their house, they go next door. They find Mrs Jones slumped in her kitchen with the toaster on and a piece of burned charcoal in the toaster. Mrs Jones is admitted to hospital with a diagnosis of severe community acquired pneumonia. She responds well to antibiotics and after a week tells the treating team that she wants to go home. She has been assessed during her admission by

the physiotherapy and occupational therapy team, who feel that she has significant problems with her activities of daily living. Their professional opinion is that it would be unsafe for her to return home. The doctors treating her note that she is slightly confused, and she scores 8/10 repeatedly on a mini-mental test. Mrs Jones is adamant that she will not consider anything other than returning home. Her neighbours, who have visited her daily in hospital, are very concerned about her returning home. The treating team considers that she should stay in hospital for further assessment and thereafter a suitable care home should be found for her. She will have to remain on the acute ward until then, and there is no immediate prospect of her returning home.

Key factors pointing towards a deprivation of liberty:

- *the monitoring and supervision of Mrs Jones on the ward,*
- *the decision of the treating team not to let her leave to return home*
- *the potential that Mrs Jones will have to remain on the ward for a significant period of time*

Case Study 2: ICU Deprivation of Liberty

The measures in the following scenario are likely to amount to a deprivation of liberty: Mr. Smith is a 45 year old man, who had no significant past medical history. While out jogging, he collapsed in front of an off duty nurse. She called for help and started basic life support until the ambulance arrived. The paramedics found that he was in VF and he was shocked back into sinus rhythm. The total downtime was around 12 minutes. On arrival in the Emergency Department his GCS was 3/15. Primary coronary intervention (PCI) demonstrated a lesion of his circumflex artery, which was stented. Following PCI, he has a CT scan of his brain was reported as normal. Following this, he is admitted to ICU and intubated and ventilated for temperature management. After 24 hours, his temperature is allowed to normalise, and he is ventilated for a further 48 hours (72 in total), after which time it is noted that he had a flexion

response to pain, but that he did not localise. The ICU team in consultation with his family decide to perform a tracheostomy to allow early weaning from ventilation and accurate assessment of his neurological function. Following the tracheostomy, his neurology has not changed, but the longer-term prognosis is unclear. A repeat CT does not show any evidence of significant brain injury. A neurological opinion is that there could be significant, possibly complete, recovery, however, any recovery will occur over weeks to months. In the meantime he will have to stay in a hospital environment to optimise his rehabilitation. Mr Smith's family are unhappy that he has to remain in hospital and would like him to return home as soon as possible where they will care for him.

Key factors pointing to deprivation of liberty:

- *the degree of monitoring of Mr Smith's condition*
- *the length of the potential stay in hospital*
- *Mr Smith's family would like him to return home in circumstances where the hospital team consider it necessary that he stay in hospital (if the hospital team, in fact, agreed that he could return home, then there would be no deprivation of liberty)*

Care arrangements in the home: a deprivation of liberty

The measures in the following scenario are likely to amount to a deprivation of liberty: Veronica is a widow of 75. She has a history of mental illness going back to her thirties. Her current diagnosis is of schizoaffective disorder. She has had a number of admissions to hospital under the MHA 1983. She has not been in hospital for some

years but sees her psychiatrist fairly regularly and attends regular s.117 MHA 1983 after-care reviews. More recently Veronica has been showing signs of short term memory loss. Veronica lives alone in the home that she shared with her husband. She is very independent but recently her daughter Susan has become concerned that Veronica is leaving pans on the stove unattended, is becoming erratic in compliance with her medication and has visibly lost weight. Veronica's psychiatrist is also concerned and Veronica agrees to an informal admission to hospital to allow her psychiatrist to assess her. During her stay Veronica has an Activities of Daily Living assessment and is noted to be unsafe in the kitchen. An MRI scan suggests some damage. Veronica's psychiatrist assesses her capacity and reaches the conclusion that Veronica lacks capacity to make decisions about her care needs, mainly because she is unable to recognise that her ability to look after herself is impaired. The clinical team consider that Veronica needs 24 hour care. The question is where it should be provided. A s.117 MHA 1983 meeting takes place. Veronica attends the meeting and pleads not to go to a care home. The CCG and local authority agree to fund 24 hour care in Veronica's home for a trial period. A care provider is sourced and Veronica goes home. Veronica's care plan is that she will have one carer at home all the time. A spare room is made available for the carer, as it is not considered that waking nights are required. The carer agency will have access to a key safe and will be able to enter Veronica's home even if she does not want them to come in. Veronica will be supervised in the kitchen. She will be supported by the carer in arranging to go out when she wants to, which will include family visits, shopping and visits to galleries and museums which she likes, but the carer will dissuade her from leaving unaccompanied (and has a protocol to follow in the event that Veronica manages to leave whilst the carer is otherwise occupied). The psychiatrist specifies that
Veronica must attend a day centre where she is well-known at least once a week to facilitate on-going monitoring of her mental state.

Key factors pointing to a deprivation:

- *the continuous presence of the carer in the home*
- *the supervision of activities whilst in the home*
- *that Veronica is not able to come and go unaccompanied*

Appendix 3: Completed DoLS Application Example

Case ID Number:				
DEPRIVATION OF LIBERTY SAFEGUARDS FORM 1 **REQUEST FOR STANDARD AUTHORISATION AND URGENT AUTHORISATION**				
Request a **Standard Authorisation** only (***you DO NOT need to complete pages 6 or 7***)				
Grant an **Urgent Authorisation** (***please ALSO complete pages 6 and 7 if appropriate/required***)				X
Full name of person being deprived of liberty	Cyril Squirrel		Sex M	
Date of Birth *(or estimated age if unknown)*	01/01/1930		Est. Age 85	
Relevant Medical History (*including diagnosis of mental disorder if known*) Diagnosis of vascular dementia, current urinary tract infection which is exacerbating confusion.				
Sensory Loss	No	Communication Requirements	Is able to communicate verbally	
Name and address of the care home or hospital requesting this authorisation	North Devon District Hospital Raleigh Park Barnstaple Devon EX31 4JB			
Telephone Number	01271 322 577			
Person to contact at the care home or hospital, (including ward details if appropriate)	Name	Mrs Ward Manager		
	Telephone	01271 322 577		
	Email	Ward.manager@nhs.net		
	Ward (if appropriate)	Devon Ward		
Usual address of the person, (if different to above)	8 Sesame street, Muppetsville, Devon. EX99 9XX			
Telephone Number	01234 56789			
Name of the Supervisory Body where this form is being sent	Devon County Council			
How the care is funded	Local Authority *please specify*			
	NHS	X	Local Authority and	

			NHS (jointly funded)	
	Self-funded by person		Funded through insurance or other	

REQUEST FOR STANDARD AUTHORISATION

THE DATE FROM WHICH THE STANDARD AUTHORISATION IS REQUIRED: *If standard only – within 28 days* *If an urgent authorisation is also attached – within 7 days*	

PURPOSE OF THE STANDARD AUTHORISATION

- *Please describe the care and / or treatment this person is receiving or will receive day-to-day and attach a relevant care plan.*
- *Please give as much detail as possible about the type of care the person needs, including personal care, mobility, medication, support with behavioural issues, types of choice the person has and any medical treatment they receive.*

A description of the care and treatment - in other words: *Why do you need to accommodate the person in the care home or hospital?*

It asks you to describe in detail the care and/or treatment the person is receiving. It is helpful to assessors if this is as detailed as possible rather than a vague statement such as "24 hour care". For example:

Cyril requires full assistance with all activities of daily living. He is unable to participate in any way or initiate any appropriate activities. He is unable to communicate his needs, so staff need to anticipate these. He is frequently agitated and cries out for unknown reasons; all practicable reasons have been addressed for this e.g. analgesia given in case of pain etc.

Cyril is extremely restless in bed and moves around unexplainably. He requires frequent repositioning by staff and is unable to maintain his own safety, even in bed. He requires all medications to be dispensed and assistance to take these from staff. Cyril also requires all meals and drinks to be provided and assistance from staff to eat / drink. He never requests food or drinks, which the consultant feels is likely a symptom of his end stage cerebrovascular disease.

He is incontinent of urine and faeces and requires assistance from staff to keep him clean and comfortable. Cyril often becomes agitated, restless which he requires reassurance for.

Cyril lacks capacity for all aspects of this care and therefore does not have the ability to make decisions in regards to his care or treatments.

- *Explain why the person is or will not be free to leave and why they are under continuous or complete supervision and control.*
- *Describe the proposed restrictions or the restrictions you have put in place which are necessary to ensure the person receives care and treatment. (It will be helpful if you can describe why less restrictive options are not possible including risks of harm to the person.)*
- *Indicate the frequency of the restrictions you have put in place.*

Secondly you are asked to explain why the person meets the *acid test* for a deprivation of liberty, using the DoLS identification tool will help you to recognise the 'supervision and control' that are in place and what you would do if the person tried to leave the ward..
In this section you need to describe all the measures you are taking which have led you to make a request for an Authorisation:

- **describe the environment the person is in**
- **who has determined where they live**
- **whether it is a temporary or permanent arrangement**
- **how are they monitored by staff leading you to conclude they are under continuous or complete supervision and control and are not free to leave.**

When describing all the restrictions it is helpful to say how frequently they are taking place. For example it is better to say: *"Mr S has to be reassured and redirected by staff at least 4-5 times a day as he is distressed and wants to leave."*

Rather than: "Mr S says he wants to leave."

It is better to say: *"1:1 support is in place at all times of day, when Cyril is in his room or moving around the building, when he has meals or takes part in social events. However at night there is less support with no 1:1 support and no checks are made beyond the routine hourly checks."*

Rather than: "Cyril has 1:1 support."

INFORMATION ABOUT INTERESTED PERSONS AND OTHERS TO CONSULT

Family member or friend	Name	***What is an Interested Person?*** An interested person is any of the following: The relevant person's spouse or civil partner; Where the relevant person and another person of the opposite sex are not married to each other but are living together as husband and wife - the other person; Where the relevant person and another person of the same sex are not civil partners of each other but are living together as if they were civil partners - the other person; The relevant person's children and step children; The relevant person's parents and step parents; The relevant person's brothers, sisters, half-brothers, half-sisters, step brothers and step sisters; The relevant person's grandparents or grandchildren. The form also asks for other people such as anyone caring for the person or interested in their welfare. This could include social workers or care staff.
	Address	
	Telephone	
Anyone named by the person as someone to be consulted about their welfare	Name	
	Address	
	Telephone	
Anyone engaged in caring for the person or interested in their welfare	Name	
	Address	
	Telephone	
Any donee of a Lasting Power of Attorney granted by the person	Name	
	Address	
	Telephone	
Any Personal Welfare Deputy appointed for the person by the Court of Protection	Name	
	Address	
	Telephone	
Any IMCA instructed in accordance with sections 37 to 39D of the Mental Capacity Act 2005	Name	
	Address	
	Telephone	

WHETHER IT IS NECESSARY FOR AN INDEPENDENT MENTAL CAPACITY ADVOCATE (IMCA) TO BE INSTRUCTED *Place a cross in EITHER box below*	
Apart from professionals and other people who are paid to provide care or treatment, this person has no-one whom it is appropriate to consult about what is in their best interests ***IMCA:*** **It is necessary for the Managing Authority to inform the DoLS team if the person will need an IMCA to support them.** **The DoLS team at the Supervisory Body will make the referral but you need to state whether the person has anyone appropriate to consult with**.	
There is someone whom it is appropriate to consult about what is in the person's best interests who is neither a professional nor is being paid to provide care or treatment	

WHETHER THERE IS A VALID AND APPLICABLE ADVANCE DECISION *Place a cross in one box below*	
The person has made an Advance Decision that is valid and applicable to some or all of the treatment	
The Managing Authority is not aware that the person has made an Advance Decision that may be valid and applicable to some or all of the treatment	
The proposed deprivation of liberty **is not** for the purpose of giving treatment	

THE PERSON IS SUBJECT TO SOME ELEMENT OF THE MENTAL HEALTH ACT (1983)				
Yes		No		*If **Yes** please describe further e.g. application/order/direction, community treatment order, guardianship*

If you are aware of any aspect of the Mental Health Act that applies to the person, for example they may be subject to a Guardianship Order, then this is where you need to include that information, with as much detail as you are able to provide.

OTHER RELEVANT INFORMATION
Names and contact numbers of regular visitors not detailed elsewhere on this form: **Once you sign and date the form you will also be asked to confirm that you have advised any interested persons of the request for a DoLS Authorisation. Communication with close family members is very important from the beginning.**
Any other relevant information including safeguarding issues:

PLEASE NOW SIGN AND DATE THIS FORM			
Signature	Mrs Ward Manager*	Print Name	Mrs Ward Manager
Date	31/08/2015	Time	13.00
I HAVE INFORMED ANY INTERESTED PERSONS OF THE REQUEST FOR A DoLS			

AUTHORISATION *(Please sign to confirm)*	Mrs Ward Manager

**** Providing the person who completed and put their name on the form emails it to the secure DCC DoLS email address the referral will be accepted. You will then just need to print it, sign it and put it in the patients notes. When the best interest assessor comes out to do their assessment they can take a copy of the signed version for their records. This should save any duplicative processes. Alternatively, you can set-up an electronic signature.***

Important Data Collection

This information is required for the quarterly DoLS returns to the Health and Social Care Information Centre. Please note this information is based on the Adult Social Care collection and the disability here does not refer to mental incapacity but to any other disability that may apply to the person.

RACIAL, ETHNIC OR NATIONAL ORIGIN *Place a cross in one box only*			
White		Mixed / Multiple Ethnic groups	
Asian / Asian British		Black / Black British	
Not Stated		Undeclared / Not Known	
Other Ethnic Origin *(please state)*			

THE PERSON'S SEXUAL ORIENTATION *Place a cross in one box only*			
Heterosexual		Homosexual	
Bisexual		Undeclared	
Not Known			

OTHER DISABILITY

While the person must have a mental disorder as defined under the Mental Health Act 1983, there may be another disability that is primarily associated with the person. This is based on the primary client types used in the Adult Social Care returns.

To monitor the use of DoLS, the HSCIC requests information on other disabilities associated with the individual concerned. The presence of "other disability" may be unrelated to an assessment of mental disorder or lack of capacity. *Place a cross in one box only*

Physical Disability: Hearing Impairment		Physical Disability: Visual Impairment	
Physical Disability: Dual Sensory Loss		Physical Disability: Other	
Mental Health needs: Dementia		Mental Health needs: Other	
Learning Disability		Other Disability (none of the above)	
No Disability			

RELIGION OR BELIEF *Place a cross in one box only*

None		Not stated	
Buddhist		Hindu	
Jewish		Muslim	
Sikh		Any other religion	
Christian (includes Church of Wales, Catholic, Protestant and all other Christian denominations)			

ONLY COMPLETE THIS SECTION IF YOU NEED TO GRANT AN URGENT AUTHORISATION BECAUSE IT APPEARS TO YOU THAT THE DEPRIVATION OF LIBERTY IS ALREADY OCCURING, OR ABOUT TO OCCUR, AND YOU REASONABLY THINK ALL OF THE FOLLOWING CONDITIONS ARE MET	
URGENT AUTHORISATION ***Place a cross in EACH box to confirm that the person appears to meet the particular condition***	
The person is aged 18 or over	
The person is suffering from a mental disorder	
The person is being accommodated here for the purpose of being given care or treatment. ***Please describe further on page 2***	
The person lacks capacity to make their own decision about whether to be accommodated here for care or treatment	
The person has not, as far as the Managing Authority is aware, made a valid Advance Decision that prevents them from being given any proposed treatment	
Accommodating the person here, and giving them the proposed care or treatment, does not, as far as the Managing Authority is aware, conflict with a valid decision made by a donee of a Lasting Power of Attorney or Personal Welfare Deputy appointed by the Court of Protection under the Mental Capacity Act 2005	
It is in the person's best interests to be accommodated here to receive care or treatment, even though they will be deprived of liberty	
Depriving the person of liberty is necessary to prevent harm to them, and a proportionate response to the harm they are likely to suffer otherwise	
The person concerned is not, as far as the Managing Authority is aware, subject to an application or order under the Mental Health Act 1983 or, if they are, that order or application does not prevent an Urgent Authorisation being given	
The need for the person to be deprived of liberty here is so urgent that it is appropriate for that deprivation to begin immediately before the request for the Standard Authorisation is made or has been determined	

AN URGENT AUTHORISATION IS NOW GRANTED

This Urgent Authorisation comes into force immediately.

It is to be in force for a period of: _____ days

The maximum period allowed is seven days.

This Urgent Authorisation will expire at the end of the day on: _____

Signed		Print name	
Date		Time	

REQUEST FOR AN EXTENSION TO THE URGENT AUTHORISATION

If Supervisory Body is unable to complete the process to give a Standard Authorisation (which has been requested) before the expiry of the existing Urgent Authorisation

An Urgent Authorisation is in force and a Standard Authorisation has been requested for this person.

The Managing Authority now requests that the duration of this Urgent Authorisation is extended for a further period of _____ DAYS (***up to a maximum of 7 days***)

It is essential for the existing deprivation of liberty to continue until the request for a Standard Authorisation is completed because the person needs to continue to be deprived and exceptional reasons are as follows (*please record your reasons):*

Please now sign, date and send to the SUPERVISORY BODY for authorisation

Signature		Date	

RECORD THAT THE DURATION OF THIS URGENT AUTHORISATION HAS BEEN EXTENDED

This part of the form must be completed by the **SUPERVISORY BODY** if the duration of the Urgent Authorisation is extended. **The Managing Authority <u>does not</u> complete this part of the form.**

The duration of this Urgent Authorisation has been extended by the Supervisory Body.

_____

<table>
<tr><td colspan="5">It is now in force for a further days

Important note: The period specified must not exceed seven days.

This Urgent Authorisation will now expire at the end of the day on:</td></tr>
<tr><td rowspan="3">SIGNED
(on behalf of the Supervisory Body)</td><td>Signature</td><td colspan="3"></td></tr>
<tr><td>Print Name</td><td colspan="3"></td></tr>
<tr><td>Date</td><td></td><td>Time</td><td></td></tr>
</table>