

Bradford Adult Social Care Factsheet

DoLs (Deprivation of Liberty Safeguards)



What is a deprivation of liberty (DoL)

A deprivation of liberty (DoL) can occur in any place such as hospitals and care homes, as well as in community settings too.

It is likely a person will be deprived of their liberty if they meet the following criteria of what's known as the 'acid test' :

They lack capacity (are unable to make decisions) about their care and accommodation arrangements ; and

- They are subject to continuous supervision and control; and
- They are not free to leave.

If the acid test is met, a DoL will be occurring regardless of whether the person is happy with their arrangements or not or how their care is paid for. Someone being deprived of their liberty does not mean something wrong is happening - the reason for depriving someone of their liberty should be to keep them safe and to promote their wellbeing.

What are DoLS?

DoLS are a set of safeguards that were implemented to ensure that people aged over 18 who lack the mental capacity to consent to their care arrangements in a hospital or a care home have certain protections if they are deprived of their liberty.

DoLS are about upholding the Human Rights of people aged over 18. The use of DoLS is not to say that someone is doing something wrong, but it

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ensures that the person being deprived of their liberty and the care home or hospital are legally protected.

Who do DoLS apply to?

DoLS only apply to people deprived of their liberty aged 18 or over who are staying in a care home or hospital. For anyone aged 16 or 17, or for people aged 18 or over who are deprived of their liberty in other settings, DoLS would not apply. Please see the Community Deprivation of Liberty (DoL) Factsheet for further information.

Who identifies if someone is deprived of their liberty?

The care home or hospital (known as the Managing Authority under DoLS) where the person is staying are responsible for identifying that someone in their care is deprived of their liberty; and they are then required to notify Bradford Council (known as the Supervisory Body) for this to be authorised. If the Managing Authority don't make the Supervisory Body aware, then a family member, friend or another professional can raise this with the Supervisory Body, who can then explore this further.

How are DoLS put in place?

Once the Supervisory Body have been informed that a deprivation of liberty is occurring, or due to occur, they should then allocate a Best Interests Assessor (BIA) and a mental health assessor to carry out the DoLS assessments.

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The DoLS assessments cover the 6 requirements which need to be met for a DoLS authorisation to be granted. These are:

- The Age Assessment (confirming that the person is over 18)
- The Mental Health Assessment (that the person has a mental disorder)
- The Mental Capacity Assessment (the person lacks capacity for the decision to be accommodated in the hospital or care home to receive care and treatment there)
- The No Refusals Assessment (that the DoLS authorisation won't conflict with an advance decision the person has made or the decision of a Lasting Power of Attorney or Deputy for health and welfare)
- The Eligibility Assessment (that the DoLS authorisation doesn't conflict with a section of the Mental Health Act 1983)
- The Best Interests Assessment (it's necessary, proportionate and in the person's best interests to be deprived of their liberty).

If all 6 assessment criteria are met, what's known as a Standard Authorisation can be put in place by the Supervisory Body. The Supervisory Body also have the power to attach conditions to the authorisation, which are things the Managing Authority must do for the authorisation to be valid.

What happens once a DoLS authorisation is in place?

Once granted, a DoLS Standard Authorisation can last for a maximum of 12 months. Toward the end of the authorisation period, a request to renew this should be made by the Managing Authority if the person is still deprived of their liberty.

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The DoLS authorisation can be reviewed at any time if there any changes to the person's situation during the authorisation.

The person deprived of their liberty will also have a representative (referred to as the Relevant Person's Representative/RPR) for the duration of the authorisation, who will maintain contact with the person, will help advocate for them and uphold their Human Rights whilst the Standard Authorisation is in place. The RPR can be a family member or friend but can also be a paid advocate (paid for by Bradford Council).

Under the DoLS framework, the person has a right to challenge the DoLS authorisation through the Court of Protection (a specialist court for people who are unable to make their own decisions) and to receive non-means tested legal aid as part of this.

Further Reading

The following websites also provide very helpful content on DoLS:

- Social Care Institute for Excellence webpage:
<https://www.scie.org.uk/mca/dols/at-a-glance/>
- Alzheimer's Society website: <https://www.alzheimers.org.uk/get-support/legal-financial/deprivation-liberty-safeguards-dols>

Contact

You can direct queries to the following email addresses:

dolsadmin@bradford.gov.uk or
mca-service@bradford.gov.uk

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Key Links

<https://www.scie.org.uk/mca/dols/at-a-glance/>



<https://www.alzheimers.org.uk/get-support/legal-financial/deprivation-liberty-safeguards-dols>

