

DEPRIVATION OF LIBERTY SAFEGUARDS (DOLS)



What is it and why does it matter?

A guide to support you, your family and anyone who works with you.
This will help you to recognise a deprivation of liberty and what that means for you.

INTRODUCTION - WHAT IS DoLS?

Article 4 of the Human Rights Act states that everyone has the right to liberty. No one shall be deprived of their liberty, however there are some situations where, in order to keep someone safe, their liberty has to be restricted.

Some people with care and support needs aren't able to make decisions the same as everyone else. However, they should be treated and cared for in a way that means they are safe and free to do the things they want to do.

For some people with care and support needs, we need to balance their right to freedom alongside risks to their safety.

To achieve this, the Deprivation of Liberty Safeguards were developed and put into legislations. This is commonly known as **DoLS**.

We understand that the term Deprivation of Liberty is scary, but it doesn't mean that anyone is doing anything wrong. It means that the situation needs someone independent to look at it to ensure that a person's rights are being protected.



Background - why was DoLS created?

There were many situations where people with learning disabilities were being discriminated against and unlawfully deprived of their liberty.

The landmark case that assisted in the development of the Deprivation of Liberty Safeguards was the Bournewood case.

In 1997, a man with autism and learning disabilities was being cared for in a hospital called Bournewood. Due to his learning disability, he wasn't able to make the decision whether he went home or not.

His carers believed he should have gone home but the hospital didn't agree, and he was detained under the Mental Health Act.

The carers felt this was unfair and sought the courts support to make sure his voice was heard. The case was heard at the European Court of Human Rights. As a result of this, the Government decided that it did not want this to happen again to other people, so it made rules called the Deprivation of Liberty Safeguards.



WHAT COULD A DoLS LOOK LIKE NOW?

SOME EXAMPLES



- A person with care and support needs who is monitored 24 hours a day by a person or cameras to keep them safe.



- A person with care and support needs who needs 2 carers at all times to keep them safe while accessing things they enjoy.



- A person with care and support needs who needs safety aids and assistive technology to help keep them safe including door alarms, monitors and specialist equipment.



- A person with care and support needs whose safety means they need to have limited/restricted access to the internet.



- A person with care and support needs whose safety means they need to have limited contact with those who may pose a risk to them.

These measures are used to keep people safe and enable them to keep doing the things they enjoy – however, they amount to a deprivation of liberty.

Each of the above individuals need their rights promoted and afforded special protections via the Deprivation of Liberty Safeguards to ensure they are looked after properly and kept safe.

Can you consent?

One thing all these examples have in common is that the individuals are unable to make an informed decision about the level of care and support they need. Each person needs to be supported to make these decisions in line with legislation called the Mental Capacity Act.

When people cannot make a decision for themselves, this is called lacking capacity.

Capacity is about your ability to make specific decisions and choices about daily life.

- which decisions you can make on your own
- which decisions you might need some help with
- which decisions you cannot make yourself

The Mental Capacity Act tells professionals how to work with you when you can't make your own decisions.



THE ACID TEST

Professionals considering a DoLS will apply a set of three questions, commonly referred to as the Acid Test. The Acid Test applies for individuals with care and support needs who lack capacity to consent to care arrangements where these deprivations are occurring.

The Acid Test helps us determine if these measures need to be authorised. These are the things that the professionals will look at and some examples:

1. ARE YOU FREE TO LEAVE?



John has a learning disability, and doesn't understand road safety, the door to his supported living is locked and he doesn't have access to the key.



Sarah's physical needs, means there is concern about her safety at night so she must sleep in a safe place bed provided by an Occupational Therapist which she is not able to get out on her own.

2. ARE YOU UNDER CONTINUOUS SUPERVISION AND CONTROL?



Simon has a learning disability and is not good at reading social cues making him at risk of financial and sexual exploitation. To keep him safe, he only goes out with staff.



Liz has autism and a learning disability and sometimes feels overwhelmed and can hurt herself and other during these times. To keep her safe, she needs 2 carers during her waking hours.



Tom has an eating disorder and a learning disability, where he eats things he shouldn't. To keep him safe, he is provided meals and all the doors and cupboards in the kitchen are locked.

Is the answer 'yes' to both of the above questions?

Does this apply to you, anyone you know or are working with? If so, this needs to be discussed with a professional. Below is an example of these discussions linked to Mary, who is being deprived of her liberties and is unable to consent.

○ **Are the deprivations necessary?**

Mary has epilepsy and global developmental delay so she is monitored by cameras and sensors during the night. Professionals feel this is necessary as she has cluster seizures during the night and they need to be monitored.

○ **Are the deprivations proportionate to the risk and keep you from harm?**

Mary's cameras are not on all night, they only come on when the sensors are triggered. This ensures she is not filmed all night.

○ **Are these measures the least restrictive option?**

An epilepsy nurse carried out a medication review and Mary is on the right medication. Mary's seizures cannot be reduced, the cameras and sensors are felt least intrusive in comparison to

In Mary's example, any decisions about her care will be made with with her family and anyone important to her. If Mary doesn't have anyone who can speak on her behalf, we can arrange an independent person to be involved to help Mary share her wishes and feelings.

If we all agree that Mary's restrictions in her care are necessary, proportionate and least restrictive, this will be authorised by the relevant authority.

There are different pathways to obtain authorisation depending on age and legal status. Your social worker/professional will help navigate you through the process.

Through this process, Mary will have a nominated person who will ensure that any restrictions on Mary are applied as agreed and remain lawful. This keeps Mary at the heart of the situation and applies another layer of safeguarding and protections.

Representative

Everyone who is considered to be deprived of their liberty must have a representative.

A representative is a person who does not work with you. They visit you and check you are looked after in a way that means you are safe. Your representative could be a member of your family or a friend. If you or anyone else is unhappy about you being deprived of your liberty, they can ask for a review. A review is a check to make sure that you are being treated in the right way.

Anyone can ask for a review and any changes in your situation would need to be looked at.

If you or your representative disagree about you being deprived of your liberty, you can ask a court to decide whether you should be deprived of your liberty or not.



SUMMARY

Just because the term “deprivation of liberty” is used it doesn’t mean that someone is doing something wrong. It means that the situation needs to be looked at to ensure the person’s rights are being protected and to confirm that things should continue as they are.

We want you to access the community and be safe in your own home with the support needed.

We recognise that this is a lot of information for you and your family, and it can feel scary, you are not alone. We are here to support you and guide you through the process.

If you have any questions about this please speak to your allocated worker.

If you do not have an allocated worker and you are worried about a child, please contact the **Worcestershire County Council Family Front Door** on **01905 822666**.

If you do not have an allocated worker and you are worried about an Adult please complete the contact forms available at:

Worcestershire County Council Adult Front Door or call **01905 768053**.



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