**Information for patients / relatives / carers.**

**What is the Mental Capacity Act?**

If you are unable to make a decision for yourself because of a mental health problem, learning disability or brain injury for example, it is described as “lacking capacity” to make that decision.

The Mental Capacity Act is a law that covers

* how to assess whether a person lacks capacity to make a particular decision
* how to support people to be heard and to make their own decisions where possible
* what to do when people cannot make some decisions for themselves.

It is a piece of law in England and Wales used to keep people with mental health problems or cognitive impairments and who are **unable** to make their own specific decisions safe and to make sure they get the care they need.

**What is ‘Deprivation of liberty’?**

A ‘deprivation of liberty’ is where you are unable to agree to arrangements for your care and support because you lack mental capacity to do so, are under what is called “continuous supervision and control” and are not able to leave the place where you are being cared for.

**What are Deprivation of Liberty Safeguards (DOLS)?**

The Deprivation of Liberty Safeguards (DoLS) form part of the Mental Capacity Act.

The safeguards apply to people aged **18 or over:**

* who have a mental health condition, including dementia or a learning disability
* who do not have the mental capacity to agree to be in hospital, care homes or supported living, but need to be there to get treatment or care to protect them from harm.

The safeguards are there to make sure that you only have your liberty taken away or restricted:

* in a safe and appropriate way
* when it is in your best interests and there is no other less restrictive way to look after you.

**Is this the same as being sectioned?**

No. Deprivation of Liberty Safeguards are different and do not apply if you are under a section of the Mental Health Act.

**What has to happen if someone is deprived of their liberty?**

Health and social care professionals are required by law to follow strict procedures.

They can put in place what we call ‘an urgent authorisation’ lasting for 7 days and can then be extended for a further 7 days. After 14 days have elapsed, no further urgent authorisation can be put in place in the same hospital during the same period of admission. A standard authorisation should be applied for at the same time to the local authority where you normally live. This can last for up to 12 months if approved.

**What happens next?**

The local authority will arrange for some assessors to meet you, your relatives and/or advocate to check that being deprived of your liberty is in your best interests.

One of the assessors is a doctor who is a specialist in mental health conditions.

The other is called a ‘Best Interests Assessor’ (BIA). The BIA will look at whether there are ways to reduce any restrictions to avoid you being deprived of your liberty, or to reduce the extent of the deprivation.

They will then write a report to the local authority advising if Deprivation of Liberty Safeguards should apply, if so, for how long, and any conditions that should be attached.

**What happens after the assessment?**

The Local authority will consider the assessment. If they agree with it, they will write to the hospital or care provider:

* saying they agree and when this should be reviewed; and
* asking the hospital or care provider to tell you and your family about their decision.

The person and their relevant person’s representative have a right to apply to ask the local authority to review the authorisation at any time, and a separate right to challenge the Deprivation of Liberty in the court of protection at any time.

Due to the large volume of applications to the Local authority, there are delays in applications being approved leading to statutory breaches in timeframes. The Walton centre has processes in place to escalate these breaches.

For any further information, please discuss with the ward manager.

For further information please refer to the ADASS website link below

[www.adass.org.uk](https://www.adass.org.uk/mental-health-drugs-and-alcohol/public-content/new-dols-forms)