

MENTAL CAPACITY ACT FACTSHEET



Deprivation of Liberty in domestic settings (CDoLS)

The Deprivation of Liberty Safeguards scheme is used to assess and authorise deprivations of liberty in care home, hospice and hospitals.

However, a “deprivation of liberty” that is “attributable to the state” can occur in other “community settings”. This includes supported living arrangements and domestic settings.

In these community settings, the DoLS scheme is not available and instead, an application must be made directly to the Court of Protection.

Deprivation of liberty safeguards can only apply if a person lacks capacity to consent to a care package and the care package- which must be in their best interest and be the least restrictive option- is depriving the person of their liberty.

The CDoLS application process

If you think someone - who is living at home / in supported living- is receiving a package of care which deprives them of their liberty – you must inform the safeguarding lead of the organisation funding their care.

The organisation funding the care must review the care arrangements to see if it can be delivered in a way that does not deprive the person of their liberty- but if this is not possible- they must make an application to the Court of Protection for an authorisation.

In care homes and hospitals- deprivation of liberty safeguards can only be applied to adults 18 years and over – but in community settings, DoLS can be applied to a person 16 years and over.

Due to an increase in the number of applications for Community DoLS, the Court of Protection launched a streamlined procedure in November 2014 which is known as the Re-X Procedure. The applications fee is currently £400 (Sept 2016), and the procedure leads to judicial approval of the current or proposed care plan, subject to review at least annually.

The responsibility remains with those funding care in community settings to ensure they have a procedure and policy in place for community DoLS.

If someone is deprived of liberty- they may be entitled to compensation for breach of their rights where an authorisation is not applied for appropriately and promptly.

Information in this fact sheet was correct at time of writing in December 2016

