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Deprivation of Liberty Safeguards

Information for patients and their relatives

What is Deprivation of Liberty Safeguards (DoLS)?

Sometimes hospitals have to limit the freedom of people who are in-patients in order to keep them safe.

The Deprivation of Liberty Safeguards (DoLS) are a legal framework that help to ensure that patients' human rights are protected if they are not able to make their own decisions regarding admission to hospital, and arrangements for their care and treatment.

What is Mental Capacity?

Every day people make decisions about their lives. These decisions range from simple everyday things like what to eat, drink or wear through to major decisions about their health, care and finances.

Being able to make these decisions is called mental capacity.

Some people may lack capacity to make certain decisions because they have:

- A brain injury
- A dementia
- A learning disability
- A mental health problem
- An acute infection

Some people will lack capacity long term whilst for others this may be a temporary condition.

What is the Mental Capacity Act?

The Act is a law that came into force in April 2007. It applies to any person aged 16 and over who lacks capacity to make a decision.

The Act tells professionals how they assess whether people have capacity to make decisions and when decisions can be made on their behalf in their best interests.

The Deprivation of Liberty Safeguards are part of the Mental Capacity Act.

When is a DoLS needed?

The Supreme Court judgment of March 2014 states that the DoLS should be applied to all people who lack capacity to consent to being in hospital and are subject to “continuous supervision and control” and are “not free to leave”.

“Continuous supervision and control” is when there are staff on hand 24 hours a day to help the person, or to protect them if they were likely to come to harm. This applies to hospital in-patients.

“Not free to leave” means if the person wanted to leave, would they be allowed to do so? It does not matter whether they could physically leave, or whether they want to leave. It means - would they be free to go on their own or with relatives or friends if they wanted to, without the agreement of the hospital?

Where a patient lacks capacity and is subject to “continuous supervision and control, and is not free to leave” a DoLS must be applied for. This is to ensure that an independent check is made on whether the admission and care is in the person’s best interests, and that there is no better way to care for them.

The Process

Hospitals must apply to the local authority for authorisation to deprive someone of their liberty. The local authority has to send out two independent assessors. One must be a specially trained doctor and the other is a specially trained ‘Best Interests Assessor’.

The doctor will carry out an assessment of the patient’s mental health and their mental capacity to consent to admission and care.

The Best Interest Assessor will talk to the patient and their family or friends to get their views and consider whether the admission and care is necessary, and is a reasonable response to any risks. They will also be able to answer any questions you may have.

If a patient has appointed a Lasting Power of Attorney or Deputy for Health and Welfare, then they can only be deprived of their liberty under the DoLS with the agreement of that person.

If the authorisation is granted by the Local Authority, a Representative’ will be appointed by them to help the patient understand their rights.

The Representative may be a family member or a friend, but if there is no one suitable to do this, an Independent Mental Capacity Advocate (IMCA) will be appointed.

A DoLS authorisation doesn’t give the hospital any special powers, but it makes the admission and care of a patient who lacks capacity lawful.

What happens if a patient dies with a DoLS in place?

If a patient dies and a DoLS is in place, the hospital must tell the Coroner. The Coroner will decide whether an inquest is needed.

If there is a Coroner's inquest, this may result in a post mortem, but this is not always the case. In such situations the Coroner's Officer will contact you to advise when and where you can collect the Medical Certificate of Death and will keep you fully informed.

Do you need more information?

We hope this information has been of help. Please do not hesitate to speak to the Ward Sister if there is any other help you need. You could also discuss your query with a doctor or social worker involved in your care or the care of your relative.

Further information is also available from:

- The Office of the Public Guardian on 0300 456 0300
- The website of the Public Guardian at www.publicguardian.gov.uk
- The Mental Capacity Act Team
Email: mcateam@dorsetcc.gov.uk
- DoLS Code of Practice

http://webarchive.nationalarchives.gov.uk/20130107105354/http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_085476