

The assessment of capacity makes clear whether or not the person can make a particular decision at that time by asking:

- a. Can the person understand the important information?
- b. Can the person retain the information (long enough to make the decision)?
- c. Can the person use or weigh up the information while considering the decision?
- d. Can the person communicate their decision by any means?

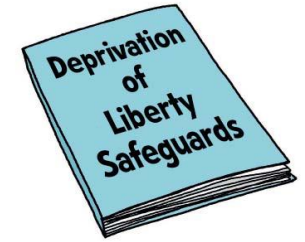
If the answer to any of these questions is 'no', the person lacks capacity to make that decision at the time it needs to be made.

Where can you find more information?

- Dorset Mental Capacity Act Team
<http://www.dorsetforyou.com/mental-capacity-act>
Tel: 01305 225650, Monday to Friday, 9am to 5pm
- Alzheimer's Society Deprivation of Liberty Safeguards (DOLS) Factsheet <https://www.alzheimers.org.uk/get-support/legal-financial/deprivation-liberty-safeguards-dols#content-start>
- Age UK Factsheet 62, Deprivation of Liberty Safeguards http://www.ageuk.org.uk/Documents/EN-GB/Factsheets/FS62_Deprivation_of_Liberty_Safeguards_fcs.pdf?dtrk=true
- Deprivation of Liberty Safeguards: what you should know: Easy read. Published by the Department of Health http://www.thh.nhs.uk/documents/Patients/PatientLeaflets/general/DOLS_whatknow-EasyRead-DoH.pdf
- Court of Protection:
email: courtofprotectionenquiries@hmcts.gsi.gov.uk
Tel: 0300 456 4600, Monday to Friday, 9am to 5pm

Please note: This information sheet was written as a quick reference guide but is not a substitute for reading Department of Health and accredited publications.

Deprivation of Liberty Safeguards (DOLS) and you



Introduction

A person who can't make a decision about something is said to lack capacity to make that decision. This leaflet is for you and your family or carers if you lack capacity to agree to stay where you are. It tells you about the **Deprivation of Liberty Safeguards** and how these affect you.

What are the Deprivation of Liberty Safeguards?

These safeguards are part of the **Mental Capacity Act 2005**. They protect people over the age of 18, who lack the capacity to make decisions about where they stay for care or treatment. If people need to be deprived of their liberty for care or treatment, the safeguards make sure that this is arranged in the **least restrictive way** available and for **no longer than needed**.



The Mental Capacity Act 2005 is a law that makes sure people are allowed to make their own decisions when they can. It also tells professionals what to do when people cannot make some decisions for themselves.

Why do the Deprivation of Liberty Safeguards apply to you?

The safeguards apply to you because you have a condition that has affected your ability to decide where you stay for care or treatment. The people caring for you have assessed that it is best for you to stay here for now. You should be treated or cared for in a way that means you are safe and are free to do most things you want to do. Some restrictions may be needed to keep you safe and well. This is called depriving you of your liberty because you may not be able to do some things you might want to do. Safeguards are put in place to protect you.

What will happen?

A **Mental Health Assessor** (a doctor) will assess whether you can make this decision yourself. If you cannot make the decision yourself, a **Best Interests Assessor** (usually a social worker, nurse or Occupational Therapist) will find out whether it is in your best interests to stay here and whether you could be cared for in a less restrictive way.



How might the Deprivation of Liberty Safeguards affect you?

The safeguards may give the care home or hospital staff the power to stop you from leaving. If you have chosen someone to help you make decisions, or to make decisions on your behalf, we will discuss the decision for you to remain here with them. We will also talk to anyone with responsibility for your health and welfare.

There are two special agreements, called authorisations, which allow a person to be deprived of their liberty. An **Urgent Authorisation** lasts 7 to 14 days. A **Standard Authorisation** lasts as short a time as appropriate and never longer than 1 year.

What do the Deprivation of Liberty Safeguards not do?

The Deprivation of Liberty Safeguards are about ensuring your Human Rights and giving you as much freedom as possible. The Deprivation of Liberty Safeguards **only authorise your stay** here so you can receive the care or treatment you need. They do not apply to other aspects of your care or treatment. You may have capacity to make many decisions about your life, such as what you want to eat, or what time you want to go to bed.



What rights do you have under the Deprivation of Liberty Safeguards?

The safeguards give you a legal right and a formal process to challenge decisions made for you.

1. A **representative** will be appointed to look after your interests. This person will keep in contact with you, support you, represent you in matters relating to you being deprived of your liberty, and will look after your best interests at all times. Your representative may be someone known as an **Independent Mental Capacity Advocate (IMCA)**.
2. You or your representative can ask for a **review** of the reasons for depriving you of your liberty here. A review is a check to make sure that you are being treated in the right way. However, asking for a review does not always mean that you will be discharged home.
3. You or your representative can ask for help to understand how the authorisation works, what it means, why it has been made and how long it will last.
4. If there is still disagreement, the Court of Protection may be asked to decide if you should be deprived of your liberty or not.
5. An **Advance Decision** can be made by someone who has capacity to refuse a particular medical treatment in the future. If you have already made an Advance Decision you cannot be asked to stay somewhere to receive that treatment.



The Mental Capacity Assessment “2-stage test”

To find out if a person lacks capacity to make a particular decision, the Mental Health Assessor checks two things:

- 1) If there is a problem with the way a person’s mind or brain works and
- 2) If this problem is so big that it stops the person from being able to make the decision that needs to be made, at the time that it needs to be made.