Deprivation of Liberty Safeguards (DOLS)

Cornwall and Isles of Scilly
For more information

Paul Wilkins
Deprivation of liberty Safeguards Lead

Department of Adult Social Care
Learning, Training and Development
Room 500
Old County Hall
Truro
Cornwall TR1 3AY

Tel: 01872 322289

email: pwilkins@cornwall.gov.uk
Deprivation of Liberty Safeguards (DOLS)
DOLS – what do you know?

I know lots

I don’t know anything
What we will be discussing

- When DOLS came into force and who they apply to.
- Defining legitimate restrictive practice.
- When restrictions become a deprivation of liberty.
- Avoiding depriving the person of their liberty.
- Criteria for applying for an authorisation.
- DOLS process
  - Assessment phase
  - Authorisation phase
  - Review phase
- What you will need to do now
Who will DOLS apply to?

The deprivation of liberty safeguards will cover patients in hospitals, and people in care homes registered under the Care Standards Act 2000, whether placed under public or private arrangements.
When did the safeguards commence?

April 2009
A deprivation of liberty is not in itself illegal, but it is, if not sanctioned by legal processes.
A deprivation of liberty occurs as a result of the presence of a number of restrictions placed on the person.
Restrictive Practice

Any practice that does or is likely to contravene a person’s human rights
Examples of restrictive practices
Restrictive Practice

- Physical restraint
- Physical intervention
- Mechanical restraint
- Environmental restriction
- Chemical restraint
- Forced care
- Electronic surveillance
- Cultural restriction
- Medical restriction
- Decision making
Before we can apply for an authorisation

6 Criteria

1. Age
2. Mental Disorder
3. Lack of capacity
4. Eligibility
5. No refusals
6. Best Interests and least restrictive
6 Best Interests

Has it been agreed that the care plan is:
in the person’s best interest?
and
the least restrictive, reasonable and available option?
1 & 2 Age and disorder

any disorder or disability of the mind
Clinically recognised conditions which could fall within the act’s definition of mental disorder

- Organic mental disorders such as dementia and delirium
- Personality and behavioural changes caused by brain injury or damage
- Learning disabilities
- Autistic spectrum disorders
- Affective disorders
- Schizophrenia and delusional disorders
- Neurotic, stress-related and somatoform disorders
- Personality disorders
- Mental and behavioural disorders caused by psychoactive substance use
- Eating disorders
3 Lack of Capacity

To apply the Deprivation of Liberty Safeguards the person must lack capacity to make decisions about their care and/or treatment.
Assessing capacity

- ‘Put’ information into brain
- Understand the information
- Remember the information
- Think about it and weigh it up
- Communicate the decision
HURBE

- Head
- Understand
- Remember
- Balance
- Express
4 Eligibility

Should we be applying the Mental Health Act instead?
5 No refusals

Is there an existing authority for making decisions for the person?

• Advance Decision to Refuse Treatment
• Personal Welfare Lasting Power of Attorney
• Deputy appointed by the court to make welfare decisions
Deprivation of liberty

Bournewood Case

HL
Avoiding a Deprivation of Liberty

How can a deprivation be avoided in the first place?
Deprivation of Liberty

Restrictive Practices

Sedation
Locked door to own room
Locked outside door with no independent exit
Little contact with local community
Lack of opportunity to make other decisions
Reduced financial decision making
Degree, Intensity and Duration

Deprivation of Liberty

Restriction

Duration

Degree and Intensity
Deprivation in the balance

Restriction
- Refusing care or treatment
- Restricted liberty
- Sedation
- Observation
- No contact with community
- Little or no choice
- Family not supportive of plan
- Physical restraint

Structured assessment of capacity
- Autonomy over daily living decisions
- Least restrictive option.
- Person-centred planning.
- The involvement of family and friends
- Regular contact with family, friends and community

Avoiding deprivation
The Authorisation Process
Deprivation of Liberty Safeguards

Standard authorisation
Managing Authority telephones central number to outline planned care. DOLS Lead discusses if referral necessary.

Form 4 completed
- DOLS administrator arranges assessments IMCA instructed for anyone without representation.
- Mental Health Assessment
- Mental Capacity Assessment
- Eligibility Assessment
- Best Interest Assessment (BI Assessor)
- Period of Authorisation comes to an end

Any assessment Says No

All assessments support authorisation

Request for authorisation declined
- Referred back to Managing Authority
- Immediately review and amend care plan

Authorisation granted and implemented by Managing Authority
- Best interest assessor recommends:
  - period for which deprivation of liberty should be authorised
  - person to act as representative

Review as necessary

No Refusals Assessment

Eligibility Assessment
Role of DOLS Lead

To co-ordinate Supervisory Authority’s role.

To advise about issues relating to deprivation of liberty.
Deprivation of Liberty

Assessment Stage
Appointment of an IMCA

IMCA appointed if the person for whom the application has been made is un-befriended
Age assessment

Evidence secured to confirm that the person is over 18 years of age.
Mental Health assessment

Carried out by a section 12 doctor or doctor with at least three years experience of assessing and treating people experiencing mental health problems.
Mental Capacity assessment

Completed by the mental health assessor or best interest assessor to establish if the person lacks capacity to make the particular decisions about their care and treatment.
Eligibility assessment

To establish if the person meets the criteria for DOLS or whether the Mental Health act should be applied.
No Refusals assessment

To establish whether an authorisation to deprive the relevant person of their liberty would conflict with other existing authority for decision-making

- Advance decision to refuse treatment
- Power of Attorney
- Court Appointed Deputy
The purpose of the best interests assessment is to establish, firstly, whether deprivation of liberty is occurring or is going to occur and, if so, whether:

- It is in the best interests of the relevant person to be deprived of liberty
- It is necessary for them to be deprived of liberty in order to prevent harm to themselves, and
- Deprivation of liberty is a proportionate response to the likelihood of the relevant person suffering harm and the seriousness of that harm.
Request refused

If any of the assessments do not support a deprivation of liberty then the plan of care must be changed.
Person’s representative

The supervisory body must appoint a person’s representative to:

Represent and support the relevant person in all matters relating to the deprivation of liberty safeguards including review.
Best Interest Recommendation

• That a deprivation of liberty is indicated
• The period for which deprivation of liberty should be authorised
• Identify the person to act as representative
Deprivation of Liberty

Review Stage
When to review

The managing authority has a duty to monitor the case on an ongoing basis to see if the person’s Circumstances change – which may mean they no longer need to be deprived of their liberty.

If the duration for deprivation set out in the initial assessment is coming to an end.

If the person or their representative make a Request.
A managing authority can give itself an urgent authorisation for deprivation of liberty where:

- it is required to make a request to the supervisory body for a standard authorisation, but believes that the need for the person to be deprived of their liberty is so urgent that deprivation needs to begin before the request is made

- it has made a request for a standard authorisation, but believes that the need for a person to be deprived of liberty has now become so urgent that deprivation of liberty needs to begin before the request is dealt with by the supervisory body.
Who reviews?

- A standard authorisation can be reviewed at any time.
- The review is carried out by the supervisory body.
When an authorisation comes to an end

If the duration for deprivation set out in the initial assessment is coming to an end the Managing Authority must re-apply for a Standard Authorisation if the restrictions need to continue past the end date.
What next?

- Code of Practice
- Document capacity assessment
- Document Best Interest decisions and process
- Do you have any people currently deprived of their liberty?
- Policy
- Ask whether restrictions are necessary at initial assessment stage
- Ring us up if in doubt
Code of Practice

Copies of this can be downloaded from:

www.publicguardian.gov.uk

Hard copies are available from The Stationary Office:

www.tsoshop.co.uk