

INFORMATION SHEET



CBF Summary: The Mental Capacity Act (2005) (MCA) and Deprivation of Liberty Safeguards (DoLS) During the Coronavirus (COVID-19) Pandemic-

Department of Health and Social Care 9th April 2020

This guidance is for hospitals, care homes and supervisory bodies (local authority or health board responsible for considering a deprivation of liberty request). It explains the process for new deprivation of liberty assessments and details what would constitute a deprivation of liberty when receiving lifesaving treatment during Covid 19. The key points are below:

- The principles of the Mental Capacity Act and Deprivation of Liberty Safeguards still apply under the pandemic. Any decisions that are made **must still be on an individual basis and not apply to whole groups of people.**
- For those who lack capacity, most changes to care during this time will not constitute a new deprivation of liberty. However, hospitals, care homes and supervisory bodies should still consider whether new changes would constitute a deprivation of liberty before implementing them.
- If the changes do constitute a deprivation of liberty, a face to face assessment will not always be necessary and can take place over the phone. A best interests decision should still be made and **involve the input of family carers where possible.** During this time, previous assessments and evidence may be used instead of a face to face assessment.
- In the case of life-saving treatment, it is not a deprivation of liberty if the treatment that the individual receives is the same that a person without a learning disability/autism would receive.
- Where additional restrictions need to be put in place to administer life-saving treatment to the individual, the least restrictive option should be considered first. Additional restrictions only amount to a new deprivation of liberty if the person is:
 1. Not free to leave accommodation *permanently*
 2. Under continuous supervision and control due to the new restrictions
 Where these requirements are *not* met, there is no deprivation of liberty.
- If a hospital, care home or supervisory body needs to make an urgent DoLS request, they can use a shortened application (see Annex B of full guidance). Once this application is completed it comes into effect immediately for **seven days** and can be extended for a further seven.

You can read the full guidance [here](#).

We aim to update summaries in line with guidance which is changing regularly, this summary was last updated on 21st May 2020.

