

The UK Supreme Court has unanimously overruled the 2014 decision in Cheshire West in a significant judgment (UKSC 16, 2 June 2026), we are awaiting updated guidance about how to assess if someone is deprived of their liberty. Therefore some of the information in this resource is out of date and will be updated in due course.

All our information sheets are available to download free of charge because we believe that money should not be a barrier to getting the information you need when you need it.

Please see the end of this information sheet for details of how to support us.

We want to make sure our resources are helpful. Please spend a few minutes giving us some feedback: [Feedback form](#)

Deprivation of Liberty Safeguards (DoLS)

The government has started the process of reforms to the Mental Capacity Act Code of Practice. This includes changes to Deprivation of Liberty Safeguards which will be replaced by 'Liberty Protection Safeguards'. This resource will be updated to reflect any changes in the law once they are made.

What is a Deprivation of Liberty Safeguard (DoLS)?

Introduced in 2009 under an amendment to the Mental Capacity Act 2005 (MCA). In 2004 The European Court of Human Rights (ECHR) decided that the legal system did not give adequate protection to people who had been assessed as lacking the mental capacity to consent to their care and support and/or treatment and who needed to be deprived of their liberty. The Human Rights Act Article 5 protects your right to personal liberty and requires safeguards to be provided to those deprived of liberty. DoLS intend to:

- Protect your relative from being detained if it is not in their best interests
- Prevent arbitrary detention when other possible alternatives have not been fully considered
- Provide a legal process for your relative and/ or their representative (this could be you) to challenge the deprivation of liberty



DoLS in a care home or hospital

DoLS can occur in a number of settings including a care home, hospital (mental health and acute), supported living, family or own home. The care home or hospital is known as the Managing Authority (MA). Sometimes, the Managing Authority may think it is necessary to take away some of your relative's liberty (freedom) to provide them with the care and support and/or treatment they need and to keep them safe. The DoLS framework ensures that any deprivation of liberty is legal and must be appropriate, proportionate and in your relative's best interests.

Examples of DoLS include:

- Regular use of physical restraint or medication (to sedate) to control behaviour
- Use of blanket restrictions
- Being under continuous supervision your relative objects (verbally or physically) to restrictions
- Your relative is confined to a particular area within their accommodation

There are two kinds of DoLS authorisation:

1. An urgent authorisation which is put in place by a care home or a hospital.
2. A standard authorisation which is put in place by a local authority.

Urgent authorisation

In an emergency, or in situations where there is no time to go through the assessment process, a hospital or care home can grant an urgent DoLS authorisation. This is only valid for 7 days and an application for a standard DoLS assessment and authorisation must be completed at the same time. If the assessment has not been carried out within 7 days and the deprivation of liberty is still needed, the urgent DoLS authorisation can be extended for a further 7 days. After 14 days, no further urgent authorisation can be put in place in the same hospital or care home during the same period of admission. A copy of the urgent authorisation must be given to your relative as soon as possible. Your relative should be given a verbal and written explanation about how they can challenge the authorisation by applying to the Court of Protection. If your relative is not able to understand this information, another way of enabling them to exercise their right of appeal must be found.

This includes informing a family carer or other family member about the authorisation, or by urgently appointing an Independent Mental Capacity Advocate (IMCA).

Case Study 2

Mike lives in a care home
He will sometimes try to eat inappropriate objects
He is supervised on excursions by two members of staff



MCA: Deprivation of liberty. The Supreme Court judgment in practice

By Social Care Institute for Excellence (SCIE)

Watch this video clip from SCIE, which includes two case studies. The second case study is about a man who has a learning disability and autism. Both case studies show the role of the Human Rights Act when depriving somebody of their liberty. The second case study also explains the role of a professional independent advocate when a DoLS application is made.



[Click here to watch the video](#)



[The Deprivation of Liberty Safeguards Code of Practice provides more information](#)

Standard authorisation

If a Managing Authority thinks it needs to deprive someone of their

liberty, they must seek authorisation up to 28 days before they plan to start the deprivation of liberty. A standard authorisation can last for up to 12 months and can then be renewed for subsequent periods of 12 months. A standard authorisation can only be granted if your relative meets all the following:

- The best interests assessor – usually a qualified social worker, nurse, occupational therapist, psychologists
- The mental health assessor – must be a medical doctor, typically a psychiatrist, who assesses whether your relative has a mental disorder within the Mental Health Act

They are appointed by the local authority (or health board) who make sure that they have the right training and experience.

[Read more about Article 5 of the European Convention on Human Rights](#)



What does the assessment involve?

There are six parts to the assessment. The assessors (best interests and mental health) will decide whether your relative and the care and support and/or treatment that they receive meet the 'criteria for authorisation' (the rules that allow a person to be deprived of their liberty).



The six parts are:

- 1. Age** – must be aged 18 years or over
- 2. Mental health** – your relative must have a 'mental disorder'
- 3. Mental capacity** – your relative have been assessed as lacking 'capacity' (the ability) to make their own decisions about their care and support and/or treatment. Your relative must still be supported to be involved in the process as much as possible.
- 4. Best interests** – if a deprivation of liberty is to take place it must be:
 - In your relative's best interests
 - Needed to keep your relative safe from harm
 - A reasonable response to the likelihood of your relative suffering harm (including whether there are any less restrictive options and if they are more appropriate)
- 5. Eligibility** – your relative cannot already be detained under the Mental Health Act (1983) or meet the requirements for detention under the Mental Health Act. If they are, the Mental Health Act should apply and not DoLS
- 6. No refusals** – Your relative has not made an advance decision to refuse treatment which conflicts with the care they are being given, and any Lasting Power of Attorney or a Court-Appointed Deputy for Health and Welfare (this could be you) agrees that your relative should be deprived of their liberty

Usually assessors will meet your relative and look at their medical and care and support and/or treatment records.

What if assessors do not allow a deprivation of liberty?

If the assessors decide that the criteria for a DoLS is not met they will tell the local authority or health board the reasons for their decision. The deprivation of liberty will not be authorised, and it should not happen.

What happens next will depend on the reasons why the criteria were not met. For example, if the assessment showed that your relative has been assessed as having the capacity to consent to and make the decision about their care and support and/or treatment they should be supported to do this, and their decision followed.

If an assessment was unsuccessful because it was decided that there were less restrictive options available, these should be introduced instead. For example, if the service where your relative lives wants to lock their bedroom door at night to stop them from walking round, an assessment may decide there are less restrictive options including:

- Allowing your relative to stay up later
- Having sufficient staff on hand to support them

The acid test

The Supreme Court's judgment of March 2014 in the case of 'Cheshire West' introduced an 'acid test' which has 3 statements. If the answer to all 3 statements is yes, then this confirms a deprivation of liberty:

1. An individual has been assessed as lacking the capacity to consent to the arrangements for their care and support and/or treatment
2. Is subject to continuous supervision and control and
3. Is not free to leave their care setting (where they are in a care home or hospital setting)

The Supreme Court also ruled that even if the individual is not objecting to a deprivation of liberty, a DoLS application is still required. The judgment marked a significant change.

If your relative is subject to a standard authorisation they must have a Relevant Person's representative (RPR) appointed. This should be someone chosen by your relative, e.g. you, another family member or friend. If they are assessed as not being able to make this choice, then the RPR is chosen by the best interests assessor. If there is no family carer, another family member or friend available then a Paid Relevant Person's Representative (PRPR) will be appointed.

If a standard authorisation is put in place, a copy of the authorisation must be given to your relative, their RPR, and anybody else who was consulted when deciding whether the deprivation of liberty was in your relative's best interest. The Care Quality Commission must also be informed. This should happen as soon as practicable.

The care home or hospital must explain the following information to your relative and their RPR as soon as practical after the standard authorisation is put in place, both verbally and in writing:

- What the effect of the authorisation is
- That your relative and their RPR both have the right to apply to ask the local authority to review the authorisation in the Court of Protection. This is known as a Section 21a appeal process
- That your relative and the RPR are entitled to ask for an IMCA advocate to be appointed to provide support throughout the Section 21a appeal process
- If you think your relative is being deprived of their liberty in a care home or a hospital, you are entitled to ask the care home or hospital to assess whether this is the case. If they do not respond promptly, you are entitled to ask the local authority to investigate

DoLS in supported living, family or own home

If your relative is deprived of their liberty in a supported living setting, family or own home then this must be carried out via an application to the Court of Protection to ensure it is legal, the least restrictive option and in their best interests.

If the Court of Protection authorises the DoLS then your relative is entitled to a Rule 1.2 Representative.

This role is similar to that of the Relevant Person's Representative (RPR) role and responsibilities include:

- Having regular contact with the person (your relative) deprived of their liberty
- Helping your relative to understand their DoLS authorisation and how it affects them
- Assist your relative to exercise their rights, e.g. if they want to challenge the authorisation
- Ensure any conditions attached to the authorisation are met, referring any concerns to the court if necessary
- If appropriate, ask for an early review of the authorisation

- Provide feedback at the end of an authorisation

[What is a Rule 1.2 Representative?](#)

Guide by VoiceAbility



Usually a social worker will decide whether the role of Rule 1.2 Representative is a family carer, other family member or friend (unpaid) or a professional independent advocate.

Key message:

If your relative is in a mental health service and they meet the criteria for detention under the Mental Health Act, they should not be subject to the Deprivation of Liberty Safeguards.

The Deprivation of Liberty Safeguards should not be used if the main reason is to restrict contact with individuals who may cause your relative harm. If it is believed to be in a relative's best interests to restrict contact with individuals an application should be made to the Court of Protection.

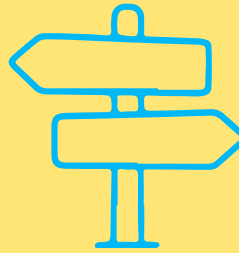
[Read this case study from the Advonet Group](#) about how their client was supported to make a complaint about their treatment whilst under a DOLS. It demonstrates how the professional independent advocate's only focus was ensuring their client's voice was heard and not being distracted by feedback from the service.



DoLS examples from practice

By Social Care Institute for Excellence (SCIE)

Ben, Isabel, Millie, Mr J and Jehan are all case studies about people with a learning disability, autism or both. Millie's includes how an IMCA was involved to provide support. Mr J's is about a young man who was admitted to hospital 50 miles away in an emergency. By showing that his human rights were breached, this resulted in a positive outcome. Jehan's case study describes how staff were required to complete additional training to prevent the use of restraint.



The local authority case study provides information about how a local authority was proactive in assessing people during their transition from

childhood to adulthood (e.g. to acknowledge that as an adult we are all permitted to have more choice and control over our lives) to ensure that if people continued to have restrictions on their life, they were lawful, appropriate, proportionate and in their best interests

[Read the case studies](#)

Further information



DoLS IMCA by Cloverleaf Advocacy

Read this information about the role of an independent mental capacity act advocate including a factsheet to download from Cloverleaf

<https://cloverleaf-advocacy.co.uk/advocacy/dols-imca>

Deprivation of Liberty Safeguards by BILD, NAS and Action on Elder Abuse. This guide is for family carers

<https://torbayandsouthdevon.nhs.uk/uploads/dols-a-guide-for-familyfriends-and-unpaid-carers.pdf>

Template Letters by Irwin Mitchell Solicitors

Use these template letters from Irwin Mitchell Solicitors if you are concerned that your relative is being deprived of their liberty without authorisation

1. [The first letter](#) is to be sent to the manager of the hospital or care home requesting that a DoLS authorisation be put in place
2. [The second letter](#) is to be sent to the local authority in the event that no satisfactory response is received to the above letter
3. [The third letter](#) is to be sent to the relevant social worker where an individual is deprived of his or her liberty in a placement that is not a registered care home or hospital, e.g. supported living

Deprivation of liberty safeguards: a practical guide by the Law Society

The Law Society has information about DoLS including quick reference guides for different settings which can be used as a checklist to identify whether your relative is being deprived of their liberty

<https://www.lawsociety.org.uk/topics/private-client/deprivation-of-liberty-safeguards-a-practical-guide>

DoLS example from practice by Social Care Institute for Excellence (SCIE)

Read practical examples of how the Deprivation of Liberty Safeguards (DoLS) are applied in real life situations, including how decisions are made in a person's best interests when they may be deprived of their liberty.

Note: not all the examples are for people with Severe Learning Disabilities.

<https://www.scie.org.uk/mca/dols/practice/examples/>



We are the charity for people with severe learning disabilities who display challenging behaviour. We make a difference to the lives of children and adults across the UK by:

- Providing information about challenging behaviour
- Organising peer support for family carers and professionals
- Giving information and support by phone or email
- Running workshops which reduce challenging behaviour

To access our information and support, call 01634 838739, email info@thecbf.org.uk, or visit our website: www.challengingbehaviour.org.uk

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