

Guide to Community Deprivation of Liberty (DoL)

Sometimes people need treatment or care from doctors, nurses or care workers. This care can be received in hospitals, care homes, supported living or in people's own homes.

This care should be delivered in a way that keeps people safe but does not unnecessarily restrict their freedom.

The Mental Capacity Act is a law about what to do when people cannot make some decisions for themselves – Deprivation of Liberty Safeguards (DoLS) are part of this law. The courts have confirmed that the legislation covers not just residents of care homes and hospitals, but also people cared for in the community - for instance in supported living or their own homes. **This leaflet outlines the process for authorising a Community Deprivation of Liberty (DoL).**

What is a Deprivation of Liberty?

It is not always easy to identify a deprivation of liberty, but there are some essential components, including:

- The person must lack the mental capacity to independently decide where to live for their care and treatment.
- The person is not free to leave.
- The person is subject to 'continuous supervision and control'.

It is important to remember that just because the term 'Deprivation of Liberty' is used it does not mean that someone is doing something wrong – it may be essential to keep the person safe.

How are they authorised?

- When NHS Somerset becomes aware that someone might be deprived of their liberty in the community, they must apply to the Court of Protection (CoP) to seek their agreement and authorise any parts of the care that are restrictive.
- The CoP is a special court which can make decisions on financial, or welfare matters for people who lack mental capacity to do this for themselves. In most Community DoL applications there is no need for anyone to attend court, as the judge can usually make a decision based on the paper evidence alone.

How is an application made?

- A worker from NHS Somerset may visit the person in their home to review the care arrangements. They will check that any restrictions in the care are proportionate to the risk of harm.
- As a judge is going to be asked to agree the care plan, a lot of detail will need to be included in an application to the CoP. The judge will want to know, as far as they possibly can, what the person themselves thinks. The judge will also want to know what family or close friends think about the arrangements.
- Once all the consultations have taken place and the worker is sure that care and support is 'least restrictive' they will prepare an application to the CoP.

What happens next?

- The court will want to appoint a Representative for the person – if you are a family member or close friend you might be asked to do this.
- The Representative will be asked to write a statement – they can have help with this from the worker making the application to the CoP.
- The court will want the Representative to be someone who will stay in touch with the person and be ‘in their corner’. There is a separate leaflet with more detail about the role of the Representative.
- Once the CoP have granted authorisation by way of an Order, this will usually be for one year, and then will be reviewed and renewed again if it is still needed.

The idea of the Court of Protection being involved may seem daunting - but it is important to remember that it is designed to be a safeguard for people who lack mental capacity, and is essential to make sure that the person at the heart of the process is properly protected from having their freedoms unnecessarily restricted.

Contact information:

For more information and advice please contact:

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