**Deprivation of Liberty Safeguards (DoLS) – What managing authorities need to know**

**Identifying who may need a DOLS authorisation.**

For everybody in a hospital or care home who lacks capacity, the following questions should be asked:

* Does the care or treatment being provided take away the person’s freedom to do what they want to do, to the extent that they are under continuous supervision and control and are not free to leave?
* Do you believe that the care or treatment being provided is in the person’s best interests?

If the answer to these questions is ‘**yes**’, you need to ask yourself whether the care or treatment could be given in a way which does not deprive the person of their liberty.

If the answer to this question is ‘**no**’, and the person cannot be cared for or treated any other way, the managing authority (the care home or hospital) must apply to the supervisory body (the Local Authority) for authorisation to continue with the care programme and deprive the person of their liberty. The supervisory body will then carry out a series of assessments to decide if it is right to deprive the person of their liberty.

**Types of DOLS authorisation:**

There are two kinds of authorisations: standard authorisations and urgent authorisations.

* **Standard authorisations** follow the process outlined above. Managing authorities should apply for a standard authorisation before the person is deprived of their liberty - for example, when a pre-placement assessment takes place and a date for the person to come to the care home is agreed more than 7 days in advance of their arrival.
* **Urgent authorisations** are granted by managing authorities, giving themselves up to 7 days cover if the person is already in their care and being deprived of their liberty, or there is insufficient time for all the necessary assessments to be completed before the person arrives. At the same time, the managing authority must also apply to the supervisory body for a standard authorisation, which would need to run on from the date the urgent ends. Urgent authorisations can never be made without a simultaneous application for a standard authorisation to the supervisory body.

The Managing Authority must inform the person’s designated next of kin or nearest relative that they are making a request for a DOLs authorisation.

**When to review a standard DOLS authorisation:**

The authorisation review is a formal process that takes a fresh look at the person who has been deprived of their liberty. A standard authorisation can be reviewed at any time.

The managing authority must make regular checks to see if the deprivation of liberty is still needed. A review must be triggered if there has been a change in the relevant person’s situation that requires the deprivation of liberty authorisation to be altered, temporarily suspended or terminated altogether.

The managing authority must also inform the supervisory body if there has been a change in the situation of a person who has been deprived of their liberty. This is especially important if the change in circumstances means that the person no longer meets one or more of the six qualifying requirements.

**Reasons for reviewing a standard authorisation:**

The reasons for a review may include:

* evidence that the person no longer meets either the age, no refusals, mental capacity, mental health or best interests authorisation requirements
* the fact that the person no longer meets the eligibility requirement because they are subject to detention or treatment under the terms of the Mental Health Act 1983 instead of the MCA DOLS
* changes in the person’s situation
* the fact that the person still meets all six qualifying requirements, but for different reasons than those set out in the original authorisation.

**Suspending a standard DOLS authorisation:**

It may be necessary to suspend a standard authorisation for a short period of time. This could happen if the relevant person becomes temporarily subject to provisions under the Mental Health Act 1983. In such cases, the managing authority must tell the supervisory body, which will suspend the standard authorisation.

If the relevant person becomes eligible for the authorisation again within 28 days, the managing authority must tell the supervisory body, which will reinstate the authorisation.

If the managing authority does not let the supervisory body know that the person is eligible again within the 28 days, then the authorisation will cease automatically at the end of this period. The managing authority would then need to seek a new authorisation if the deprivation of liberty was to continue.

**What to do when a standard authorisation is due to end:**

If a standard authorisation is due to expire and the managing authority feels that the person in their care will still be deprived of their liberty, the managing authority **must apply** to the supervisory body **prior to expiry** for another standard authorisation. The managing authority can apply up to 28 days in advance of the expiry date.

**Unauthorised deprivations of liberty:**

The managing authority must make every effort to decide if a person in a hospital or care home is being deprived of their liberty. However, if a member of staff, family member, carer, or any other third party suspects unauthorised deprivation of liberty, the law entitles them to tell the managing authority. If the managing authority fails to satisfy their concerns, the person can ask the supervisory body to investigate. Standard letters are available for this purpose.

**What to do when a person subject to a DOLS authorisation dies:**

The managing authority must tell the GP that the person was under a DOLS authorisation at the time of death. This means that the GP cannot give a cause of death, as the Coroner will have to do this. The GP is however permitted to confirm that the person is no longer alive.

The managing authority must contact the Coroner at the earliest opportunity following the person’s death to advise them of a death under a DOLS authorisation. During Coronial office hours, please follow the advice given by the Coroner’s office. Outside normal Coroner’s office hours, please follow “out of hours” death procedures. The body must be accompanied by the police and taken to the Coronial Mortuary and the Coroner notified the next working day.

**Basic housekeeping skills for managing authorities:**

Managing authorities should establish a separate record of all deprivation of liberty related documents for a person whenever an urgent authorisation is given or a standard authorisation is requested.

This record should remain open until the person ceases to be deprived of their liberty. It should contain all of the completed forms, notices, requests and other documents concerning the person and their deprivation of liberty.