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Resources

[Deprivation of Liberty Safeguards \(DoLS\) – Bury Health and Adult Social Care](#)

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[DoLS - SCIE](#)

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Best Interests

The Best Interests Assessment requires consultation with family members, friends or any other advocate. If the person has no family or friends who can act as a 'Relevant Persons Representative' (RPR), then the Local Authority must appoint an RPR.

5

Best Interests

Where the support being provided deprives the person of their liberty, the Managing Authority must submit a DoLS referral to the Local Authority.

The LA is the Supervisory Body and is legally required to assess and authorise a DoLS.

This process requires an assessment by a Best Interests Assessor and a section 12 Doctor to ensure that the person lacks the capacity to consent, that the DoLS is proportionate and appropriate and the least restrictive, and is in the persons Best Interest.

Deprivation of Liberty Safeguards (DoLS)

[Bury Safeguarding Partnership](#)



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Identifying a DoLS

If the person lacks the mental capacity to consent to their accommodation for care and treatment and they are:

- 1) Under continuous supervision and control and
- 2) Are not free to leave, then they are being deprived of their liberty, for example: locked doors, use of covert medications, 1-1 care, constant supervision if outside of the building, being restrained, bedrails, wheelchair straps etc.

1

Background

Article 5 of the European Convention of Human Rights Act, protects your right to liberty and security. It focuses on protecting individuals' freedom from unreasonable detention, as opposed to protecting personal safety. You have a right to your personal freedom. This means you must not be imprisoned or detained without good reason. This resulted in the implementation of the Deprivation of Liberty Safeguards (DoLS) in conjunction with the Mental Capacity Act 2005. It provides a legal framework for those people who are aged 18+, and who are accommodated in either a hospital or care home setting and whose care amounts to a deprivation of their liberty.

Accommodation in such a setting may also have implications on a person's Article 8 rights to have a private and family life.

2

Consent

If there is question over whether the person can consent and they meet the diagnostic test under the Mental Capacity Act, then a mental capacity assessment will need to be undertaken. The test for capacity is:

- 1) Does the person have an impairment of the mind or brain? 2) If so, does that impairment mean that the person is unable to make the decision in question at the time it needs to be made?

The assessment needs to consider whether the person understands the information to make the decision, retain it long enough to make the decision, weigh up the pros and cons of the decision and communicate their decision.

3

Cheshire West

As a result of The Supreme Court's judgement in the cases of [P v Cheshire West and Chester Council and P&Q v Surrey County Council](#) this in effect lowered the threshold for what constitutes a deprivation of liberty in care.

This extended the threshold to thousands more people who were not actively opposing their placement this is known as the 'acid test.'