

## **Expectations of Best Interest Assessors**

Below are the requirements South Gloucestershire Council expect from a Best Interest Assessor (BIA) undertaking an assessment in relation to Deprivation of Liberty Safeguards. Best Interest Assessors will be asked to complete a checklist to submit along with their assessment in relation to this.

### **Secure Connection**

Please ensure that all confidential information emailed to the DoLS team is sent via a secure connection:

- If you do not work for South Glos Council and have a gcsx or nhs.net account you can e mail [dolsteam@southglos.gcsx.gov.uk](mailto:dolsteam@southglos.gcsx.gov.uk) .
- If you have a South Glos Council email or an external email please send emails to [dolsteam@southglos.gov.uk](mailto:dolsteam@southglos.gov.uk). Please note that unless you are emailing internally this is not a secure connection and you will need to send the email securely using securesend or other encryption tool, or password protect your document.

### **Timescales**

Once a BIA has been allocated a piece of work South Gloucestershire Council will expect to receive the completed assessment within 7 days. Please contact the DoLS team if there are particular reasons why you think an assessment can't be completed within this time frame.

### **Consultation with Interested Parties**

#### **Making Contact:**

On occasion it can be difficult to make contact with interested parties and this has in the past delayed the assessment process. If you are struggling to make contact with someone, particularly if you might be considering that they could be an appropriate Relevant Person's Representative (RPR), please let the DoLS team know. We have a standard letter we can send that advises the person that you are trying to make contact, requesting they make contact within a specified time period. If they fail to make contact and this means you cannot identify an RPR, please recommend a paid representative and advise the DoLS team of the circumstances on the check list. The DoLS team can then send another letter advising that a paid rep has been appointed and that they can contact the DoLS team if they would like to consider taking on the role of RPR.

#### **Identifying a Relevant Person's Representative:**

In light of recent case law it has been particularly important that an RPR is aware of their responsibility to facilitate an appeal to the Court of Protection, should the Relevant Person be objecting to their accommodation. Please ensure that this is discussed with any potential Relevant Person. Please record this in the section

where you explain why they are appropriate to appoint and also on the checklist. If you cannot identify a suitable person who feels able to take on this part of the role then the Supervisory Body will need to request the involvement of a Paid Rep. Please complete form 3 accordingly.

### **Checking contact details for accuracy:**

On occasion the information provided on the Form 1 application is not accurate. Please can you cross check the information with other records to help ensure accuracy in your assessment. Please ask each interested party what address they would like information sent to and ensure names and addresses are accurate. This helps us to make sure that we have accurate and up to date information when sending out the completed assessments and/or authorisation. This reduces the potential for data breaches. Please record that you have considered this on the checklist.

### **Referral for a 39D IMCA**

South Gloucestershire Council automatically refer all Relevant Person's Representatives for the support of a 39D IMCA. In order for the IMCA to provide any meaningful support we provide them with form 3 and form 5. However this could be problematic if an RPR decides to decline the IMCA's involvement when they make initial contact. They may have good reason to challenge why such personal information was shared with the IMCA without their knowledge or that of the RP.

As part of your assessment, please can you assess whether the RP is able to consent or lacks mental capacity in relation to sharing their information with an IMCA. Please can you record the outcome on form 3 under the RP's views? If you assess that the RP lacks capacity to make the above decision the supervisory body will make a best interest decision about the suitability of sharing this information.

Please can you make any potential RPR aware that they will be automatically referred for a 39D IMCA and this will involve the sharing of assessment information? Please confirm that they have no objection to this. Please advise the DoLS team if the potential RPR does have an objection and the nature of this.

It is likely that any RPR will need to be consulted about a best interest decision to share the RP's information if the RP lacks capacity to consent to this. Please can you record the outcome on form 3 under any other relevant information?

Please record the outcome on the checklist when you submit your assessment.

### **Covert Medication**

In light of recent case law (AG, Re [2016] EWCOP 37 (06 July 2016) please ensure that you identify whether the Relevant Person is receiving covert medication. If they are receiving covert medication please demonstrate that you have considered this in relation to the best interest assessment. Please consider making a condition in relation to the regularly reviewing the covert medication plan. As stated by Judge Bellamy:

‘Any change of medication or treatment regime should also trigger a review where such medication is covertly administered.

Such matters can be achieved by placing appropriate conditions to which a standard authorisation is subject...’

Please make sure you consider the covert medication plan when deciding how long to recommend the authorisation for. Please document this consideration. As stated by Judge Bellamy

‘If the standard authorisation is to be for a period of longer than six months there should be clear provision for regular, possibly monthly, reviews of the care and support plan’.

Please record this on the checklist when you submit your assessment.

### **Demonstrating decision making**

When demonstrating your decision making process surrounding whether or not the deprivation is in the Relevant Person’s best interests, it is helpful to include certain factors.

It is relevant to include whether or not the placement has been arranged privately and is being paid for by the RP, or whether it has been arranged and funded by the local authority. Please document this in the ‘back ground information’ section of form 3.

It is also relevant to demonstrate when weighing up the options on the balance and burden sheet that you have considered more than one option. Even if there appears to be no alternative option, it is important to explain the reasons why there appears to be no viable alternative.

The above information can provide a more thorough explanation for any solicitor supporting an RP to appeal. Your assessment may initially be their only source of information.

### **Objections**

If the Relevant Person is considered to be objecting to their accommodation when an authorisation is made, the DoLS team will refer them for an IMCA and keep a record of the objection. This helps ensure the person's Article 5 rights are upheld. Please can you record whether you consider that the RP is objecting and why in form 3 under the section 'Views of the Relevant Person'. Please record this on the checklist when you send your completed assessment.

### **Date when the standard authorisation is recommended to come into force.**

Please date this as the same date you sign the completed assessment.

### **Form 5 and form 6**

South Gloucestershire Council request that a form 5 or form 6 is completed and submitted alongside your completed assessment. Please complete relevant sections of the form.

On form 5 please enter the date that the authorisation ends. For example if the authorisation is a year from 14.11.16 it will end on 13.11.16. Please leave the date that the authorisation comes into force blank.

Please state the reason for the length of the authorisation. Please put a brief explanation to state the purpose of the authorisation. For example: 'To provide 24 hour care in a care home to meet all identified physical and mental health needs'.

For form 5 please include details of the RPR if you have identified one, or tick the appropriate box if you haven't. If you haven't identified a representative please complete the back page of form 5 with the details of the RP.

On both forms please leave the 'evidence of the Supervisory Body' section blank. This is completed by the supervisory body.

### **Choice of letter for the Relevant Person**

South Gloucestershire Council have produced an easy read version of the letter that notifies the RP of the authorisation. This includes pictures to aid understanding. Please consider which letter would be most appropriate for the person you have assessed and record this on the checklist when you submit your assessment.