

The Deprivation of Liberty Safeguards

Interagency Policy and Procedures

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Introduction

- 1.1** The Deprivation of Liberty Safeguards (DoLS) 2007 are part of the Mental Capacity Act 2005 (MCA). The legal procedure for the DoLS is set out in Schedule A1 of the MCA. They apply to people over the age of 18 years who are accommodated in hospitals or registered care homes and who may lack the mental capacity to consent to their accommodation for the purposes of their treatment or care. They provide a legal framework to protect the right to physical liberty contained in Article 5 of the European Convention on Human Rights. The DoLS legal framework sets out the processes that need to be followed before a Deprivation of Liberty can be legally authorised. The person subject to the authorisation then has the right to challenge their detention by applying to the Court of Protection.
- 1.2** This policy should be read in conjunction with relevant legislation and codes of practice and does not replace these documents. The DoLS Code of Practice is a supplement to the overarching MCA Code of Practice. Since the DoLS Code of Practice was published the definition of what amounts to a Deprivation of Liberty has changed. This is because it is subject to case law judgment. Recent case law should be referred to in order to identify what amounts to a deprivation of liberty.
- 1.3** On 19th March 2014, the Supreme Court delivered a judgment: *(P (by his litigation friend the Official Solicitor)(Appellant) v Cheshire West and Chester Council and another (Respondents)P and Q (by their litigation friend, the Official Solicitor) (Appellants) v Surrey County Council(Respondent)* . It made a decision about what amounts to a deprivation of liberty for someone who lacks the mental capacity to consent to their treatment or care arrangements. This led to what is commonly referred to as the 'Acid Test' for a Deprivation of Liberty:

Where there is no valid consent to accommodation for the purposes of care or treatment, there are two key questions to ask:

- Is the person subject to continuous supervision and control?

AND

- Is the person free to leave? (in the sense of removing themselves temporarily or permanently in order to live where and with whom they choose)

- 1.4** A person can also be subject to a deprivation of liberty in other community settings, including supported living placements and private dwellings. Young people aged 16 and 17 years old may also be considered as deprived of their liberty in any setting. In these circumstances it is not possible to make an authorisation under the DoLS, as the DoLS only apply to people 18 years old and above. When the State is aware that such arrangements are taking place an application needs to be made directly to the Court of Protection to request that the deprivation is authorised. This process is beyond the scope of this policy. If it appears that these circumstances may apply to an individual in a community setting in South Gloucestershire Council, or where South Gloucestershire Council has funding responsibility, a referral should be made to the Council's Adult Social Care department. If the person is funded by South Gloucestershire NHS Clinical Commissioning group (CCG) then a referral should be made directly to the CCG.
- 1.5** The Deprivation of Liberty Safeguards do not apply to people detained in psychiatric hospital under the Mental Health Act (MHA) 1983. However when someone is subject to the MHA 1983 in a community setting, on leave under s.17, subject to a Guardianship Order or a Community Treatment Order (CTO) and it is considered that they are deprived of their liberty, a DoLS authorisation or an order from the Court of Protection should be considered.

2. Definitions:

2.1 Managing Authority

The registered person or body with management responsibility for the hospital or care home in which a person is, or may become deprived of their liberty.

2.2 Supervisory Body

A local authority that is responsible for considering a deprivation of liberty request, commissioning the assessments and, where all the assessments agree, authorising deprivation of liberty. Within South Gloucestershire the Supervisory Body is South Gloucestershire Council.

2.3 Deprivation of Liberty

Deprivation of Liberty is a term used in the European Convention on Human Rights about circumstances when a person's freedom is taken away. Case law defines its meaning in practice.

2.4 Restraint

The use or threat of force to help do an act, which the person resists, or the restriction of the person's liberty of movement whether or not they resist. Restraint may only be used where it is necessary to protect the person from harm and is proportionate to the risk of harm.

2.5 Relevant Person

A person who lacks capacity in relation to their accommodation and is, or may become, deprived of their liberty in a hospital or care home.

2.6 Standard Authorisation

An authorisation given by the Supervisory Body after completion of the statutory assessment process, giving lawful authority to deprive a relevant person of their liberty in a particular hospital or care home.

2.7 Urgent Authorisation

An authorisation given by a Managing Authority for a maximum of seven days, plus a further seven days by a Supervisory Body in exceptional circumstances, that gives the Managing Authority lawful authority to deprive a person of their liberty in a hospital or care home while the standard deprivation of liberty authorisation process is undertaken.

2.8 Mental Capacity

Mental capacity is always referred to as time and situation specific. Where the term 'lack of capacity' is used throughout this document it refers specifically to the mental capacity to consent to accommodation for the purposes of care or treatment in circumstances that amount to a deprivation of liberty at the time the decision needs to be made. A legal definition is contained in Section 2 of the Mental Capacity Act 2005.

2.9 Registered Care Home

This includes both registered residential and nursing homes. The Managing Authority is the person registered under Part 2 of the Care Standards Act 2000 in respect of the care home.

2.10 Hospital

This includes both private & publicly funded hospitals. In the case of NHS hospitals the NHS Trust or authority that manages the hospital is the Managing Authority. In the case of independent hospitals the Managing Authority is the person registered under

Part 2 of the Care Standards Act 2000 in respect of the hospital.

2.11 DoLS Service

This is a local term used to describe both the staff that carry out DoLS work on behalf of the Council that make up the service. This includes the DoLS Service Lead, DoLS Support Officer Best Interests Assessors (BIAs) and Mental Health Assessors. This service will co-ordinate & commission the DoLS assessment and review process on behalf of South Gloucestershire Council.

2.12 Code of Practice (CoP)

This refers to the DoLS Code of Practice, which supplements the main Mental Capacity Act 2005 Code of Practice.

2.13 IMCA

Independent Mental Capacity Advocate –this is someone who provides support and representation for a person who lacks capacity to make specific decisions, where the person has no one else to support them. An IMCA is not the same as an ordinary advocate. The IMCA service was established by the Mental Capacity Act 2005. IMCAs appointed under DoLS have a specific role and are required to have additional DoLS specific training. See DoLS CoP 7.34 – 7.41 for details on the role of the DoLS IMCA.

2.14 BIA

Best Interest Assessor – This refers to the assessor responsible for conducting a range of assessments to ascertain whether an authorisation for deprivation of liberty will be granted. The BIAs are appointed by the Supervisory Body.

2.15 MHA

The Mental Health Assessor is a separate assessor to the BIA. The MHA must conduct the mental health assessment, but may also be responsible for the eligibility assessment and mental capacity assessment where appropriate. The MHA must be a doctor who is either approved under section 12 of the Mental Health Act 1983 or is a registered medical practitioner with at least 3 years post-registration experience in the diagnosis or treatment of mental disorder. They must undertake specific training in relation to DoLS. The MHA is appointed by the Supervisory Body.

3. Purpose and scope

3.1 This document provides a framework for the implementation of the Deprivation of Liberty Safeguards within South Gloucestershire and aims to set out the processes and procedures that must be followed by those that have a duty of care towards a person who is, or may become deprived of their liberty. This includes both Managing Authorities and the Supervisory Bodies.

3.2 The Supervisory Body will deliver the duties required by the DoLS. South Gloucestershire Council are responsible for delivering the functions of the Supervisory Body within South Gloucestershire. The responsibilities of the Supervisory Body are set out in the DoLS CoP and schedule A1 of the MCA. This policy does not attempt to replicate this information but to set out how the Supervisory Body should implement their responsibilities.

3.3 This policy is relevant to the following organisations and groups:

- South Gloucestershire Council
- South Gloucestershire CCG
- Hospitals and Registered Care Homes
- Carers
- Service Users
- Advocacy Providers
- Care Quality Commission (CQC)
- General Practitioners
- Voluntary Sector
- Police and Ambulance Services
- Independent and Voluntary Sector Providers

This is not an exhaustive list, but represents key stakeholders.

3.4 The policy does not cover procedures for Managing Authorities to identify a deprivation of liberty or any procedures prior to the submission of a request for a standard authorisation. These procedures will need to be produced internally for each care home or hospital unit. However key responsibilities for Managing Authorities are identified.

3.5 The DoLS are part of the MCA. The MCA remains the over-arching legislation and anyone implementing this policy must also adhere to the duties set out in the MCA. This includes the statutory principles set out in section 1:

1. A person must be assumed to have capacity unless it is established that they lack capacity.
2. A person is not to be treated as unable to make a decision unless all practicable steps to help him to do so have been taken without success.
3. A person is not to be treated as unable to make a decision merely because he makes an unwise decision.
4. An act done, or decision made, under this Act for or on behalf of a person who lacks capacity must be done, or made, in his best interests.
5. Before the act is done, or the decision is made, regard must be had to whether the purpose for which it is needed can be as effectively achieved in a way that is less restrictive of the person's rights and freedom of action.

4. Recording Information

South Gloucestershire Council's DoLS process is recorded using an electronic data base and in folders saved in the council's secure electronic drive. Please refer to Appendix 1 for details of the processes for recording information.

5. Procedures/Guidelines

5.1 The Deprivation of Liberty Safeguards Service.

The DoLS service is based within South Gloucestershire Council and is responsible for carrying out the duties of the Supervisory Body. It consists of the DoLS Support Officer, administrative support, Best Interest Assessors (BIAs) and managers. The DoLS Support Officer is the first point of contact and has a key role in co-ordinating the DoLS process and the functions of the Supervisory Body.

In addition to the above, other professionals undertake roles as part of the DoLS process externally from the DoLS team:

- Best Interest Assessors (BIAs) undertake assessments as part of the DoLS process. Some BIAs are employed by South Gloucestershire Council in other roles within the council and undertake assessments as an addition to their main job role.

Some BIAs are not employed by the council and work independently. They undertake assessments for the council on a case by case basis and are paid per individual assessment. Please refer to Appendix 5 BIA appointment and re appointment policy for details.

- Mental Health Assessors undertake assessments as part of the DoLS process. They are doctors who work independently from the council and will undertake individual assessments agreed on a case by case basis and are paid per individual assessment.
- Authorising signatories are managers within the supervisory body who are able to sign relevant documents to authorise a Deprivation of Liberty. In order to be able to undertake this role they should have the sufficient knowledge, training and experience of DoLS. They are required to scrutinise all the assessments and make a decision whether to accept the recommendations made by the BIA before authorising a Deprivation of Liberty. There should be a degree of separation between the day to day operation of the DoLS service and the authorising signatory in order to avoid any conflict of interest.
- IMCAs and Paid Representatives have an independent role and are employed directly by a separate agency. They provide a service at various stages throughout the process by contractual arrangement with South Gloucestershire Council or by 'spot purchase' agreement.

5.2 The DoLS Forms.

The DoLS forms are completed in order for the DoLS process to be carried out effectively. South Gloucestershire Council use the forms that have been produced by the Association of Directors of Adult Social Services (ADASS) they can be accessed from the ADASS website; <https://www.adass.org.uk/mental-health-drugs-and-alcohol/public-content/new-dols-forms>

You will find copies of these forms in Appendix 6.

5.3 Applying for a Standard Authorisation and/or making an Urgent Authorisation.

The Managing Authority has responsibility for identifying if a person who is being accommodated by them is currently deprived of their liberty or think that they are likely to be in the future.

If the Managing Authority considers that a person who is being accommodated by them is likely to be deprived of their liberty, they must complete a request for a Standard Authorisation up to 28 days before the person is due to arrive. The Supervisory Body must then arrange for the person to be assessed within 21 days of receiving the application.

If the Managing Authority considers that a person who is currently being accommodated by them is deprived of their liberty, they must complete an Urgent Authorisation. This also applies in relation to people who are due to arrive with the Managing Authority imminently. An Urgent Authorisation grants the legal authority to deprive a person of their liberty for up to 7 days, in order for the Supervisory Body to arrange for the necessary DoLS assessments to be carried out. To grant themselves an Urgent Authorisation the Managing Authority must be satisfied that the person is likely to meet all the qualifying requirements. The Managing Authority must also complete a request for a Standard Authorisation. It is not possible for an Urgent Authorisation to be granted unless a request for Standard Authorisation has also been completed.

The request for a Standard Authorisation and Urgent Authorisation are completed using ADASS form 1. An application must be valid in order for the Supervisory Body to accept it. This means it must include all the essential information and be signed and dated correctly. Appendix 7 provides guidance about how to complete the form. The completed form 1 should be sent to the DoLS team .

If someone other than the Managing Authority considers that a person is being deprived of their liberty in a hospital or registered care home and the Managing Authority has not requested a Standard Authorisation, they should firstly raise this with the Managing Authority concerned. If they feel unable to do this or they receive an unsatisfactory outcome they can raise their concerns with the Supervisory Body. Details of this process can be found in Chapter 9 of the DoLS CoP.

5.3 Identifying the correct Supervisory Body

It is important that the Managing Authority identifies the correct Supervisory Body to send the completed application to. The Supervisory Body is responsible for receiving DoLS applications for Relevant Person (RP) who 'ordinarily resides' within their area:

Care Homes:

- If the RP's placement is funded by South Gloucestershire Council they will be the receiving supervisory body.
- If the RP's permanent placement is funded by another local authority the application needs to be sent to the Supervisory Body within that local authority, not South Gloucestershire.
- If the RP is self-funding their permanent placement the application needs to be sent to the authority where the care home is based. If the care home is in South Gloucestershire they will be the receiving Supervisory Body.
- If the RP is residing at the care home on a temporary basis and usually lives elsewhere, the application needs to be sent to the Supervisory Body within the local authority where the RP is normally resident.
- If the RP's placement is funded by the CCG, such as Continuing Health Care (CHC), the application needs to be sent to the Supervisory Body within the local authority area where the CCG is based.

Hospitals:

- Hospitals should send the application to the Supervisory Body within the local authority where the patient is normally resident. It is important to write the person's usual address on the form 1 so this can easily be identified.

5.4 Sending information securely

Confidential information such as a form 1 should not be sent by email unless it is done by a secure connection. Please contact the DoLS team for advice about ensuring that you are sending the document securely. If you are sending an application by post please contact the DoLS team for advice about addressing it correctly. This is not the preferred method due to the delay between completing the application and the Supervisory Body receiving it. The DoLS team is able to receive applications by fax.

5.5 Receiving a request for assessment for a Standard Authorisation

Once the Supervisory Body has received a request for a Standard Authorisation the DoLS team will check that the application is valid. If they are not satisfied that the application includes all the essential information, they will contact the Managing Authority and request that they re-submit the application. This should not delay the Supervisory Body's ability to assess, when it has clearly been identified that a person is being deprived of their liberty and they are the responsible Supervisory Body. Once the application has been accepted the details will be recorded on South Gloucestershire Council's electronic database. The application will be scanned and stored in the Council's secure computer system (see Appendix 1).

5.6 Assessment process for a Standard Authorisation

Once the Supervisory Body has accepted an application for a Standard Authorisation, a Best Interest Assessor (BIA) and Mental Health Assessor (MHA) will be identified to complete the assessments required in order to establish whether a Standard Authorisation should be granted. The BIA will complete the age, no refusals, best interests and on most occasions the capacity assessment (ADASS form 3). The MHA will complete the mental health and eligibility assessments and on particular request the capacity assessment (ADASS form 4). It is expected that the assessments are completed within 7 days of allocation or sooner if requested by the Supervisory Body. The completed assessments should be sent to The DoLS Team by a secure e mail connection (see 5.4 above). South Gloucestershire Council has specific expectations in relation to the BIA assessment, details can be found in the document 'Expectation for BIAs' in Appendix 4.

Please refer to chapter 4 of the DoLS CoP for further details about the assessment process.

If it is identified by the Supervisory Body that at the time of assessment there is nobody appropriate to consult other than people providing care or treatment for the Relevant Person (RP) in a professional capacity, a 39A IMCA will be instructed by the Supervisory Body to represent the RP. The BIA will need to consult with the IMCA before concluding their assessment.

There is a local IMCA organisation contracted to provide 39A IMCAs and a referral should in most cases be made to this organisation. If the RP does not live in South Gloucestershire the Supervisory Body should check with the local

IMCA service in that area that they agree to provide this service before making a referral. This service will be delivered as a 'spot purchase' arrangement. A copy of the document IMCA and RPR contract guide (see Appendix 3) should be sent to the organisation.

Once assessors and if relevant an IMCA have been appointed this is recorded on South Gloucestershire Council's electronic database (see Appendix 1).

5.7 Assessment Outcomes

Once the Supervisory Body has received the completed assessments it will consider these and make a decision about whether or not to grant an Authorisation to deprive the RP of their Liberty. The assessments are given to one of the authorising signatories in South Gloucestershire Council, with responsibility to grant or refuse an authorisation on behalf of the Supervisory Body.

If any of the assessments conclude the requirements are not met then the assessment process will cease and an authorisation cannot be given. The signatory will sign form 6 Standard Authorisation not granted. In such circumstances if there are concerns that the RP is being unlawfully deprived of their liberty a safeguarding referral may be made by the Supervisory Body to the local authority with safeguarding responsibility.

If all assessments are positive the signatory must consider any conditions and the duration of the authorisation recommended by the BIA. If they are satisfied with the assessments they will sign form 5 Standard Authorisation granted.

5.8 Appointing a Representative

As part of their assessment a BIA will identify if there is someone suitable to carry out the role of the Relevant Persons Representative (RPR). In doing so they will ensure that the person they have identified can fulfil all the functions of the RPR, including facilitating an appeal to the Court of Protection if appropriate. If the BIA is unable to identify a suitable person they will notify the Supervisory Body who will then need to appoint a Paid Representative.

If a BIA identifies someone suitable to undertake the RPR role, their details are entered into the last page of ADASS form 5 Standard Authorisation granted. The form 5 is sent to the identified RPR along with an information sheet about the role of the RPR (see Appendix- 2). If the person agrees to be the RPR they

should complete and sign to confirm this on the last page of form 5 and return this to the Supervisory Body.

If the Supervisory Body is required to instruct a Paid Representative they should identify an organisation local to the RP which is able to provide this service. This would usually be the local IMCA service. For RPs residing in South Gloucestershire there is a contractual agreement for a local IMCA service to provide a Paid RPR service. The form 5 will be sent to this service who will complete the signed last page with the name of the worker who has been identified as the Paid RPR. If the RP resides outside South Gloucestershire the Supervisory Body should first make contact with the identified paid rep service for that area to establish that they are willing to provide this service. Once this has been agreed the form 5 should be sent to the organisation with the RPR information sheet (Appendix 2) and the document IMCA and RPR contract guide (see Appendix 3).

5.9 Instructing an IMCA

Both the relevant person and their representative have a statutory right to access an IMCA to provide additional support. The Supervisory Body must instruct an IMCA to act for the RP or the RPR if requested. South Gloucestershire Council are informed by the DoLS code of practice when instructing IMCA's.

South Gloucestershire Council Supervisory Body automatically instruct a 39D IMCA for all RPRs and any RP who has been identified by the BIA at the time of assessment to be objecting to their accommodation. The BIA should advise the RPR that this will mean assessment information needs to be shared with the IMCA and inform the Supervisory Body if the RP or RPR has concerns about this. The BIA should also assess the RPs capacity to consent to sharing their information with an IMCA. There is a local IMCA organisation contracted to provide 39D IMCAs and a referral should in most cases be made to this organisation. If the RP does not live in South Gloucestershire the Supervisory Body should check with the local IMCA service in that area that they agree to provide this service before making a referral. This service will be delivered as a 'spot purchase' arrangement. A copy of the document IMCA and RPR contract guide (see Appendix 3) should be sent to the organisation.

5.10 Recording and notifying relevant parties of the decision.

Once the decision has been made and a representative has been identified the following paperwork will be sent to notify relevant parties of the decision:

- A copy of the decision either form 5 Standard Authorisation granted or form 6 Standard Authorisation not granted is sent to the RP the Managing Authority, the 39A and/or 39D IMCA and any other interested party consulted by the BIA. If the DoLS authorisation is granted the form 5 is also sent to the RPR/paid representative.
- If the DoLS authorisation is granted a copy of the assessment information forms 3 and 4 are sent to the RP the Managing Authority, the RPR/paid representative and 39D IMCA. The RPR is also sent the RPR information sheet (Appendix 2).

The assessment outcome is recorded on South Gloucestershire Council's electronic database, including confirmation that that the paperwork has been sent out. It is also recorded whether the RP is considered to be objecting to their authorisation (see Appendix 1).

5.11 The Managing Authority's responsibilities.

The DoLS code of practice sets out the Managing Authorities responsibilities in relation to the DoLS. This policy does not attempt to replicate this and the Code of Practice should be referred to for full details.

Once an authorisation has been granted the Managing Authority is responsible for seeking to ensure that the Relevant Person (RP) and the Relevant Person's Representative (RPR) understand the effect of the authorisation and the RP's rights, including their right to appeal the authorisation via the Court of Protection, to request a review or to have an IMCA instructed (DoLS C of P, 5.8 & 7.4). If the Managing Authority becomes aware that a RP's rights are not being upheld they should contact the DoLS team straight away.

The Managing Authority should have a record of who the RP's representative is and how frequently they make contact. If the Managing Authority has concerns that the representative's level of contact is not sufficient to be able to carry out their role, and these concerns cannot be resolved with the representative, they should inform the DoLS team straight away.

If the Supervisory Body is made aware that a RP's rights are not being upheld or the Representative is not fulfilling their role, they will take action to address

this. This will initially involve attempting to make contact with the appointed representative. On occasion the Supervisory Body may have to appoint a different Representative and/or instruct an IMCA. When this is the case all efforts will be made to inform relevant parties including family members when appropriate.

5.12 Reviews

Chapter 8 of the DoLS Code of Practice sets out the circumstances when a DoLS authorisation should be reviewed. The statutory grounds for a review are:

- The relevant person no longer meets the age, no refusals, mental capacity, mental health or best interests requirements.
- The relevant person no longer meets the eligibility requirement because they now object to receiving mental health treatment in hospital and they meet the criteria for an application for admission under section 2 or section 3 of the Mental Health Act 1983.
- There has been a change in the relevant person's situation and, because of the change, it would be appropriate to amend an existing condition to which the authorisation is subject, delete an existing condition or add a new condition.
- The reason(s) the person now meets the qualifying requirement(s) is(are) different from the reason(s) given at the time the standard authorisation was given.

The Supervisory Body must carry out a review if one of the above grounds are met. A Managing Authority must request a review if they become aware that one of the above grounds are met. An RPR or Paid Representative can also request a review. A review can be requested by completing the first page of ADASS form 10 Review form and sending it securely to the DoLS Team.

When the Supervisory Body receives a request for a review it will check that it does appear that one of the above grounds are met. If the Supervisory Body is satisfied that a review does need to take place an assessor will be allocated in the same way as arranging a new DoLS assessment. It may not be necessary for a full assessment to take place. A BIA or a Mental Health Assessor will be requested to complete an assessment on the qualifying requirement that has

been raised in the review request. If a review has been requested to change or add a condition then a BIA will be allocated to assess this. The assessor will be expected to complete their assessment within 7 days or sooner if requested.

Once the assessment is complete the rest of ADASS form 10 will be used to record the outcome, which will be sent to a Supervisory Body authorised signatory to consider the assessment, including any addition or variation to the conditions. If in agreement they will sign to confirm the outcome of the review.

If the assessment concludes that the qualifying requirements continue to be met, this will mean the RP will remain subject to the DoLS Authorisation that was originally granted. If the assessment concludes that one of the qualifying requirements is not met the DoLS Authorisation will immediately cease. If there are concerns that the RP is being unlawfully deprived of their liberty a safeguarding referral may be made by the Supervisory Body to the local authority with safeguarding responsibility.

The Supervisory Body should consider whether the RP or the RPR would benefit from the support of an IMCA during the review process. An IMCA should be instructed in the same way as mentioned in 5.9 above if it is deemed appropriate.

5.13 Making a further application when a DoLS Authorisation is about to expire.

When a Relevant Person is subject to a DoLS authorisation and this authorisation is due to expire, the Managing Authority must consider whether the RP is likely to still be deprived of their liberty when that authorisation expires. If the Managing Authority is of the view that the Relevant Person will require a further DoLS assessment then they should make an application to the Supervisory Body responsible up to 28 days before the expiry date. The Managing Authority can do this by completing ADASS form 2. There is guidance about how to complete this form in Appendix 8. The Supervisory Body will receive and consider accepting the application in the same way as mentioned in 5.5 above. They should arrange an assessment within 21 days of receiving the application. An assessment for a Standard Authorisation is arranged in the same way as mentioned in 5.5 above. It is not possible to complete an ADASS form 2 after an authorisation is has expired. The Supervisory will not accept a form 2 in these circumstances. An application for

a Standard Authorisation and completion of an Urgent Authorisation if applicable on form 1 would need to be completed, please see 5.3 above.

5.14 Equivalent Assessments

The DoLS legislation allows for equivalent assessments to be used instead of undertaking a new assessment when it is required to assess an RP under the DoLS. An equivalent assessment for any of the qualifying requirements can be used if it does not appear that any of the RP's circumstances have changed, including their accommodation, and the assessment took place within the previous year.

6. Appeals, the Court of Protection and Complaints

6.1 Managing Authority Appeals

Once an authorisation has been granted or refused by the Supervisory Body, the Managing Authority cannot appeal against the decision. However, the Managing Authority can appeal against the assessment process if it believes there was a fault in the assessment process or negligence on the part of the assessor. They should do so by contacting the DoLS team. If this cannot be resolved informally, the dispute can be investigated through the Supervisory Body's complaints procedures.

6.2 Complaints

Complaints should be dealt through the relevant Managing Authority or Supervisory Body complaints procedure. South Gloucestershire Council's complaints process can be accessed here:

<http://www.southglos.gov.uk/documents/CCH82-Your-Feedback-Counts.pdf>

When a complaint involves a number of different agencies, guidance should be drawn from South Gloucestershire Council Children's Adult and Health handling customer feedback policy, available from:

<http://www.southglos.gov.uk/council-and-democracy/complaints/children-adults-and-health-complaints/adult-social-care-and-public-health-complaints/>

6.3 The Court of Protection

The Court of Protection, established by the MCA, provides a process to allow

anybody deprived of their liberty the right to speedy access to a court that can review the lawfulness of their deprivation of liberty. It is the responsibility of the Managing Authority to ensure that the relevant person and their representative are aware of their rights to apply to the court, both before the authorisation is granted and afterwards. Also that they have the information required to make a referral to the Court. The RP and their representative should be made aware of the types of questions/issues they can take to the Court as stated in the DoLS Code of Practice. The Managing Authority and Supervisory Body are required to comply with any conditions imposed by the Court following a hearing.

7. Information Sharing

All information shared and recorded during the DoLS process should be in accordance with Chapter 16 of the MCA Code of Practice and with the principles outlined in the Avon, Gloucestershire & Wiltshire Information Sharing Agreement- check for any updates.

<http://intranet/content/CEandCR/Sections/IG/doc/InfoSharingCorePrinciples.pdf>

or <http://www.protectinginfo.nhs.uk/>

8. Related Policies, Procedures and legislation

Safeguarding Adults Multi-Agency policy available from:

<http://sites.southglos.gov.uk/safeguarding/wp-content/uploads/sites/221/2015/05/Joint-Safeguarding-Adults-Policy-FINAL-June-2016.pdf>

Mental Capacity Act 2005 available from:

<http://www.legislation.gov.uk/ukpga/2005/9>

Mental Capacity Act Code of Practice, available from:

<https://www.gov.uk/government/publications/mental-capacity-act-code-of-practice>

The Mental Health Act 1983 available from:

<http://www.legislation.gov.uk/ukpga/1983/20/contents>

The Mental Health Act Code of Practice available from:

<https://www.gov.uk/government/publications/code-of-practice-mental-health-act-1983>

9. Useful Contacts

South Gloucestershire Council DoLS Team: Tel. 01454 865824

e mail dolsteam@southglos.gov.uk Fax. 01454 865828

South Gloucestershire Council Customer Services Officer Desk: 01454 868007

Office of the Public Guardian: Tel. 0300 456 0300