

Deprivation of Liberty Safeguards (DoLS)

These safeguards are an amendment to the Mental Capacity Act 2005. They apply to people aged 18 or over in hospitals or care homes in England and Wales who are unable to make decisions for themselves but who are not detained under the Mental Health Act (1983).

The safeguards affect people who may be in hospitals, or in Residential Care and Nursing Homes, and may include anyone over the age of 18 years with a Mental Disorder. This includes people with dementia who are admitted to a hospital or a care home, are 'deprived of their liberty' and do not have the ability to make the decision about their care or treatment.

The safeguards came into force on 1 April 2009 and are intended to ensure that a person's loss of liberty is lawful.

If a request to Telford & Wrekin as the supervisory body to authorise a person's Deprivation of Liberty is agreed, then that person:

- must have a representative appointed to support them,
- has the right to challenge the authorisation in the Court of Protection,
- can request that the authorisation be reviewed to check whether criteria to deprive them of their liberty are still met.

Key Features:

- Hospitals and care homes have to identify the restrictions that they need to have in place to keep someone safe.
- If these restrictions (when added together) amount to a deprivation of liberty, the hospital or care home must request an authorisation from the Supervisory.
- It is unlawful for a hospital or care home to deprive a person of their liberty without obtaining an authorisation.
- Following the Supreme Court's judgment in AGNI [2026], determining whether a deprivation of liberty exists requires consideration of all relevant circumstances and is not based solely on the former "acid test".

Fact sheet

Last Review Date: July 2026

Next Review Date: July 2027

What is a Deprivation of Liberty?

There is no single test that determines whether a person is deprived of their liberty.

In **AGNI [2026] UKSC 16**, the Supreme Court confirmed that deciding whether a deprivation of liberty exists requires a **multi-factorial assessment** of the person's individual circumstances.

Relevant factors may include:

- the degree and intensity of any restrictions placed upon the person;
- the extent to which the person is under supervision and control;
- whether the person is confined to a particular place;
- the duration of the arrangements;
- the person's wishes, feelings and views about the arrangements; and
- the overall impact of the arrangements on the person's freedom.

No single factor is determinative. Each situation must be considered on its own facts.

Professionals must consider both the objective restrictions on the person and whether the person is expressing agreement or contentment with the arrangements when assessing whether Article 5 of the European Convention on Human Rights is engaged.

What is the Process?

When the DoLS Team receive a request for an authorisation, they will organise a series of 6 assessments.

These assessments are carried out by trained Best Interest Assessors (B.I.A.s) and suitably qualified doctors.

The assessments consider whether the care arrangements amount to a deprivation of liberty, taking account of all relevant circumstances, current case law and the person's wishes and feelings, and whether any deprivation of liberty requires authorisation under the Deprivation of Liberty Safeguards.

They are:

- for a person who lacks capacity to make a decision on their care
- necessary to prevent harm to them
- the least restrictive way to keep the person safe
- in their best interests, considering their stated wishes and beliefs and those of people close to them
- legal and compatible with other care legislation.



Text relay



Telephone
interpretation

visit us @ www.telford.gov.uk/asc

follow us on



Fact sheet

Last Review Date: July 2026

Next Review Date: July 2027

The DoLS Code of Practice guides professionals, Managing Authorities and Supervisory Bodies on their roles and responsibilities and processes involved under the Safeguards.

Mental Capacity Act 2005: Deprivation of liberty safeguards – Code of Practice to supplement the main Mental Capacity Act 2005 Code of Practice: Department of Health – Publications

Important Update

In June 2026 the Supreme Court handed down its judgment in A Reference by the Attorney General for Northern Ireland (Deprivation of Liberty) [2026] UKSC 16 (AGNI). This decision changed the legal approach to determining whether a deprivation of liberty exists and replaced the former Cheshire West "acid test" with a broader assessment of all relevant circumstances.

Practice and guidance will continue to develop as national guidance is updated following this judgement.

Contact Us

Requests for authorisations from care homes should be emailed to: dols@telford.gov.uk.
The DoLS contact number for Telford and Wrekin enquires is: 01952 383054.



Text relay



Telephone
interpretation

visit us @ www.telford.gov.uk/asc

follow us on

