

# Deprivation of Liberty Safeguards

## Guidance



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Version 1



# Contents

- Page 1** What is the Deprivation of Liberty?
- Page 2** How can you reduce the risk of Depriving?
- Page 3 & 4** How do I know if an application is needed?
- Page 5** what Factors make a DoL?
- Page 6** what should I do prior to making an application?
- Page 7** Final question to ask before you make your application
- Page 8** How do I apply for an authorisation?
- Page 9** FAQ's
- Page 10** Contact Us

# How to Contact Us?

## Essex County Council

1. Visit our website to download the forms  
[www.essex.gov.uk/deprivationofliberty](http://www.essex.gov.uk/deprivationofliberty)
2. If the individual is in a care home—the forms are the responsibility of the Registered Care Home Manager and the completed forms must be sent to [DOLforms@essex.gov.uk](mailto:DOLforms@essex.gov.uk)
3. Fax the forms to **0808 280 0550**
4. Post the forms to

**Rachel Blockelet  
Adult Safeguards Unit  
Deprivation of Liberty Team  
A9 County Hall  
CM1 1LX**

Free E-learning is available for everyone in Essex by emailing:

[DOLtraining@essex.gov.uk](mailto:DOLtraining@essex.gov.uk)

# What are the Deprivation of Liberty Safeguards?

The Deprivation of Liberty (DoL) is an amendment to the Mental Capacity Act (2005).

The DoL Safeguards are designed to prevent arbitrary decisions being made that deprive vulnerable people of their liberty. These Safeguards have been developed to protect service users but they also protect staff from legal liability in respect of depriving an individual of their liberty - if an authorisation is given

If a person is deprived of their liberty, they gain a number of rights, including the right to an identified representative; a rights of appeal & the right that their “deprivation” must be reviewed and monitored

These Safeguards cover people in both hospitals and care homes registered under the Care Standards Act 2000

They become a statutory obligation on **1 April 2009**

# How can I reduce the risk of a DoL Occurring ?



# FAQ's

## What is a Managing Authority?

*The name used to describe Care homes within the Deprivation of Liberty Code of Practise*

## What is a Supervisory body?

*The name used to describe Essex County Council within the Deprivation of Liberty Code of Practise*

## When does the Deprivation of Liberty come in to force?

*April 1st 2009*

## Why is the Deprivation of Liberty relevant to health and social care?

*It is an amendment to the Mental Capacity Act (2005) which is fundamentally about helping people make their own decisions. This amendment ensures that no one is deprived of their liberty within any care home or hospital across England and Wales. Unless it is in their best interests*

## From Where do I get more information?

*The Department of Health website [www.dh.gov.uk](http://www.dh.gov.uk)  
The County Councils website [www.essex.gov.uk](http://www.essex.gov.uk)*

## How do I apply for an authorisation?

- The **Managing Authority** (Care home or hospital) must apply for the authorisation and implement the outcome of it
- DoL Safeguards Code of Practice identifies the information that must be provided in writing to the Supervisory Body (LA or PCT) to request a DoL is authorised
- Form 1 (if urgent) and Form 4 (if standard) must be completed in full. Authorisation process will not begin until Supervisory Body has accepted forms from Managing Authority
- Authorisation should be obtained from the supervisory body **in advance** of the deprivation of liberty, except in circumstances considered to be so urgent that the deprivation of liberty needs to be immediately
- The Managing Authority should inform the individual, their family & friends and carers and any IMCA already involved of the application to the Statutory Body for an Authorisation

## How do I know if an application is needed?

The following 5 questions must all be answered **YES** to proceed to a Deprivation of Liberty Application:

1. Do you reasonably believe the person lacks the capacity to consent to being in the care home or hospital in order to receive the care or treatment that is necessary to prevent harm to them?( Forms to record assessments of capacity can be downloaded from [www.essex.gov.uk/mentalcapacityact.co.uk](http://www.essex.gov.uk/mentalcapacityact.co.uk))
2. Is the person who lacks capacity at risk of a deprivation of their liberty now or within the next 28 days?
3. Does a Deprivation of Liberty appear to be the least restrictive option that will ensure the individual does not come to harm from their own actions (or inactions)?
4. Does a Deprivation of the individual's liberty appear to be in their best interests?
5. Is the person 18 years of age or older (or going to turn 18 in the next 28 days)?

## How do I know if an application is needed?

The following 5 questions must all be answered **NO** to proceed to a Deprivation of Liberty Application:

1. Is the person subject to any powers of the Mental Health Act (1983) in a way that would mean they are ineligible for a Deprivation of liberty Authorisation under the mental capacity Act (2005)?
2. Is the proposed deprivation of liberty in order to provide treatment in a case in which the person has made a valid and applicable advance decision to refuse that treatment?
3. Is the proposed deprivation of liberty for the purpose of mental health treatment in hospital and does the person object to going to (or staying in) hospital or to the proposed treatment? (in which case the MHA must be Used)
4. Do you reasonably believe the person may meet the criteria to be detained under Section 2 or 3 of the Mental Health Act (1983)? (in which case the MHA must be used)
5. Has an attorney or deputy for personal welfare, with the authority to do so, indicated that they will object to the person entering (or staying in) the hospital or care home?

## Some final questions to ask before you make your application

1. **Have all less restrictive measures been made to prevent a Deprivation of Liberty application being made?**
2. **Is the need for the person to be deprived of their liberty so urgent that it has to start immediately?**

**IF YES** – *The Managing Authority should give an Urgent Authorisation (Form 1) and apply to the supervisory body for a Standard Authorisation simultaneously (Form 4) - this lasts for 7 days (ie you MUST complete both form 1 and form 4)*

**IF NO** – *The Managing Authority needs to apply to the supervisory body for a Standard Authorisation (Form 4) - The assessments must be conducted within the next 21 days and the DoL can only commence once the authorisation has been granted*

Between April 2009 and May 2009 these timeframes will be extended to 21 days for urgent applications and 42 days for standard applications

# What should I do prior to making an application?

- Discuss any potential cases with the individual's social worker or CPA Co-ordinator
- Reduce the risk of DoL occurring. (See page 2)
- Where an individual should be detained under the Mental Health Act, an assessment should be commissioned
- Where an individual needs to be detained under the Mental Health Act apply for this. forms found on [www.essex.gov.uk](http://www.essex.gov.uk) under Mental Health

# What factors mean a DoL may be occurring?

Every Case will need to be assessed on an Individual basis

**A Culmination of these factors could be a DoL (but individually probably do not constitute a DoL)**

Locked ward / unit(2.10)

Keypad / double door handles

Bringing back the individual who has wandered (2.10)

Benign force being used to take a confused person to a hospital / unit

Placing reasonable limitations on visiting of an individual by relatives / friends

Refusing to let an individual leave without an escort whose job is to support them

**One or more would be a DoL**

**Restraint** (including sedation) being used to take a resisting person to hospital / care home

**Force** being used to prevent a person leaving a unit where they persistently try to leave

**Severely restricting** access to the individual by relatives & carers

Decision to admit being **opposed** by relatives / carers who live with the individual

**Denying** a request by relatives to have the person discharged to their care

Staff exercising complete **control** over care & movement for a significant period (incl. Assessments, treatment, contacts & residence)