



Hambleton, Richmondshire and Whitby
Clinical Commissioning Group



Scarborough and Ryedale
Clinical Commissioning Group



Harrogate and Rural District
Clinical Commissioning Group

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11 Feb 2013	Melanie Perera, Solicitor, CYC		

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PART 2 DOLS - PROCEDURE

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2.

GLOSSARY OF TERMS

AD	-	Advance Decision
AMHP	-	Approved Mental Health Professional
BIA	-	Best Interest Assessor
CCG	-	Clinical Commissioning Group
DOLS	-	Deprivation of Liberty Safeguards
ECHR	-	European Convention on Human Rights
EPA	-	Enduring Power of Attorney
ECtHR	-	European Court of Human Rights
IMCA	-	Independent Mental Capacity Advocate
LA	-	Local Authority
LPA	-	Lasting Power of Attorney
MA	-	Managing Authority – Hospital or Care Home responsible for Care and requesting an assessment of deprivation of liberty.
MCA	-	Mental Capacity Act 2005 (as amended by the Mental Health Act 2007)
MHA	-	Mental Health Act 1983 (as amended by the Mental Health Act 2007)
MH Assessor	-	Mental Health Assessor
PCT	-	Primary Care Trust
RPR	-	Relevant person's representative
SB	-	Supervisory Body – the Local Authority responsible for assessing the need for and authorising the deprivation of liberty.

3. Background and Introduction

- 3.1 The Mental Capacity Act 2005 (MCA) provides a statutory framework for acting and making decisions on behalf of individuals who lack the mental capacity to do so for themselves. The Act came fully into force in October 2007.
- 3.2 The introduction of DOLS is a direct result of the case of 'HL' v the UK (The Bournewood case outlined in Ch 1, Para 1 of the DOLS Code of Practice). The ECtHR required the UK Government to implement new legislation compliant with the judgment. This legislation was inserted into the Mental Capacity Act 2005 by the Mental Health Act 2007.
- 3.3 With effect from 1st April 2009 all Primary Care Trusts and Local Authorities, all registered hospitals, and other institutions such as hospices and care homes are legally required to have a policy and procedure in place to provide for adults who lack capacity. With effect from 1 April 2013 the Supervisory Body responsibility in respect of hospitals transferred from Primary Care Trusts to Local Authorities. CCGs will oversee these responsibilities and have a responsibility around training and MCA compliance. CCGs should also be involved in joint local strategic leadership related to MCA & DOLS.
- 3.4 North Yorkshire County Council (NYCC) and City of York Council (CYC) have roles as both Managing Authority and Supervisory Body. It is important to be aware that there is a potential for DOL with any person or resident. In the majority of cases this will not be an issue but Managing Authorities should have systems and care plans structured to follow the least restriction route, to minimise the risk of a DOL.
- 3.5 Nothing in this policy & procedure should be taken as preventing action which is immediately necessary to save life or prevent serious harm to a relevant person. However, a situation must not be permitted to become urgent merely by failing to take appropriate action under this or any other policy.
- 3.6 This document is split into 2 parts:- Part 1 sets out Policy and Part 2 sets out Procedure.
- 3.7 The MCA Deprivation of Liberty Safeguards (DOLS) apply to anyone:-
- aged 18 years or over
 - suffering from a mental disorder within the meaning of the MHA and
 - for whom DOL (within the meaning of Article 5 of the European Convention of Human Rights (ECHR)) is considered, after an independent DOLS assessment, to be necessary in their best interests to protect them from harm.
 - for whom detention under the Mental Health Act is not appropriate at that time. However, if the person meets the criteria to be detained under the MHA then the MHA must be used. This may necessitate transferring the person from the Care Home to Hospital. (Ref: GJ v Foundation Trust) Link: -

- 3.8 The safeguards cover persons in hospitals, and people in care homes registered under the Care Standards Act 2000, whether placed under public or private arrangements. The safeguards are designed to protect the interests of an extremely vulnerable group of users and to:-
- ensure people can be given the care they need in the least restrictive regime
 - prevent arbitrary decisions that deprive vulnerable people of their liberty
 - provide safeguards for vulnerable people
 - provide them with rights of challenge against unlawful detention
 - avoid unnecessary litigation compared to following the Court of Protection process.
- 3.9 The safeguards provide a process of application, assessment, authorisation and review when it is necessary to deprive a person of their liberty and provides them with representation and rights of appeal where decisions about where they reside and/or about serious medical treatment are in dispute.
- 3.10 The ECtHR has ruled that ‘in determining whether there has been a deprivation of liberty the distinction between a ‘deprivation’ of and ‘restriction’ upon liberty is ‘merely one of degree or intensity and not one of nature or substance.’ Helpful checklists are available in the Annexes 1 - 4 in the DOLS Code of Practice. Judgements from the Court of Protection also provide a source of information, although caution should be used in applying these to individual circumstances. Legal advice should always be sought when appropriate.
- 3.11 From 1 April 2013 Local Authorities Supervisory Bodies are responsible for the DOLS assessment of all adults in hospitals and registered care homes who are ordinarily resident in their area and meet the criteria laid down in the MCA 2005 and DOLS 2007.
- 3.12 The MCA 2005 is underpinned by a set of principles and is accompanied by a Code of Practice, which all health and social care professionals must follow unless they have cogent reasons for veering away from its guidance.

4. General Principles

- 4.1 At the core of the MCA are the five key principles that require decision makers to choose the least restrictive method of preventing harm to the relevant person and always to act in the relevant person’s best interests. Every effort should be made to prevent deprivation of liberty from occurring by ensuring that other adequate safeguards are in place.
- 4.2 The key principles are contained in the primary legislation, and are:

- 4.2.1 A person is presumed to have capacity unless it is established that they have not.
- 4.2.2 All practicable steps must be taken to assist and enable a person to make a decision for themselves.
- 4.2.3 No-one should be treated as being unable to make a decision merely because the decision they take is unwise.
- 4.2.4 Any decision taken on behalf of an incapacitated person must be done in their best interests.
- 4.2.5 Before making any decision, regard must be had to whether the purpose for which the decision is made or act is done, can be achieved in any less restrictive way.
- 4.3 If a Manager of the Managing Authority has reasonable belief that the care plan may require a deprivation of liberty, then they must request an assessment from the relevant Supervisory Body.

5. Scope

This policy, procedure and guidelines, applies to all staff caring for people who lack capacity within all hospitals and registered care homes in North Yorkshire and York.

- 5.1 This policy applies to adults over the age of 18 who lack capacity to make a decision about their treatment or welfare and whose treatment or care in a hospital or registered care home might include acts that amount to depriving them of their liberty.
- 5.2 This policy does not apply to an individual under the age of 18 who lacks capacity as defined under the MCA and whose treatment or care would include arrangements that amount to deprivation of liberty. In such cases reference must be made to the Children Act 1989, the MHA, if the grounds support such consideration, or an application to the Court of Protection. (Chapter 36 of the MHA Code of Practice, pages 326-354, includes comments on parental responsibilities in this context).
- 5.3 This policy does not apply to individuals who are not in a care home or hospital or to authorise the conveyance of a person to be admitted to a care home or hospital for the provision of treatment or care.
- 5.4 The MCA DOLS do not apply to people living in their own homes or any other place other than a hospital or care home. However someone may be deprived of their liberty in their own home with the authority of the Court of Protection.

6. Policy Statement

NYCC, CYC and CCGs are committed to delivering care that is culturally and religiously sensitive to the needs of all persons. All sections of this policy aim to ensure that no present, or future person, whether formal or informal, receives unfavourable treatment on the grounds of their race, sex, disability, colour, nationality, ethnic origin,

religion, marital status, sexual orientation or age. The organisation recognises the importance of following the protocol of various cultures and religions and staff must be sensitive to such issues in these circumstances.

7. Purpose of the policy

This policy outlines the statutory responsibilities and requirements under the MCA 2005 DOL Safeguards and Health & Social Care Act 2012 and those of hospitals and care homes and their staff who will be involved in the assessment processes, provides guidance to staff and directs staff to government policy.

8. Responsibility

8.1 Role and Responsibilities of the Local Authorities and CCGs as Managing Authorities

8.1.1 Managing Authorities should have systems and care plans structured to follow the least restriction route to minimise the possibility of a DOL.

8.1.2 Section 5 of the MCA 2005 provides protection against criminal prosecution and civil action to staff who restrict or restrain adults who lack capacity to provide care and/or treatment, and who would be at risk of harm if they did not receive the necessary care or treatment, provided the degree of restriction or restraint is proportionate.

8.1.3 Where the degree of restriction or restraint exceeds that which is protected under Section 5 of the MCA 2005 and it appears that DOL may be occurring or about to occur, hospitals or care homes must consider requesting an assessment.

8.1.4 Hospitals acting as Managing Authorities where either necessary treatment cannot be given or transfer to another hospital cannot be arranged in the person's best interests without the person being deprived of their liberty, must refer the person to the Local Authority/Supervisory Body where the person is ordinarily resident to be assessed under the MCA DOLS.

8.1.5 Where a person in a hospital is going to be discharged to a care home within 28 days and the care or treatment that is necessary to prevent harm to the person will require restriction or restraint of a degree or intensity that might amount to deprivation of liberty, the relevant receiving care home (acting as Managing Authority) must refer to the Local Authority as Supervisory Body for the area where the person is ordinarily resident for a standard authorisation to be issued.

8.1.6 If a Managing Authority is so concerned that a person meets the criteria for MCA DOLS and believes that the need to deprive the person of their liberty is urgent to the extent that that authorised deprivation of liberty needs to begin before the request to the Supervisory Body can be dealt with, or a request has been made, and has not yet been completed, the Managing Authority can grant itself an '*urgent authorisation*'.

- 8.1.7 The effect of an *urgent authorisation* is that the relevant Supervisory Body must ensure that an assessment for *standard authorisation* is completed within 7 calendar days. In exceptional cases the Supervisory Body (but not the Managing Authority) can extend the initial 7 day period to 14 calendar days.
- 8.1.8 The MCA 2005 DOLS Code of Practice provides guidance on the role and responsibilities of Managing Authorities. It can be found at:
http://www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/@dh/@en/documents/digitalasset/dh_087309.pdf
- 8.1.9 The DOLS Code of Practice gives very detailed flowcharts at annexes 1 - 4. They outline what a Managing Authority should consider before applying for authorisation of DOL; Supervisory Body action on receipt of a request for DOL authorisation; and Standard Authorisation review process.
- 8.1.10 The professional in the Managing Authority with responsibility for the person will have primary responsibility for initiating an application for authority of DOL if it is decided, in consultation with the multidisciplinary team, that the way in which care/treatment needs to be delivered involves, or may involve DOL. Care Planning provides an ideal opportunity to identify the potential for DOL and, if possible, to arrange care so that DOL does not actually occur.
- 8.1.11 Each Ward/Unit Manager/Registered Manager has responsibility for ensuring that all staff are informed of the MCA DOLS and receive sufficient training and support and are able to have access to the Codes of Practice and other relevant guidance to undertake their role. Any ward/unit/home staff who believe that an authorisation should be considered should bring this to the attention of the Manager. Managers should ensure that the functions of the Managing Authority are undertaken as described in the MCA DOLS Code of Practice and Care Quality Commission guidance. Managers will further be responsible for responding to a request for a MCA DOLS application in respect of a person to be processed, and for submitting an application to the Supervisory Body. Applications from all hospitals and hospices should be made to North Yorkshire who will forward on to York those cases where the Relevant Person is ordinarily resident in the York area.

For North Yorkshire County Council:-

MCA DOLS Admin Team
Ryedale House
Old Malton Road
Malton
North Yorkshire
YO17 7HH

Tel: Help Line 01609.536232

Fax (re Hospitals): 01653.698133

Fax (re Care Homes): 01609.532009

For City of York Council:-

The DOLS Team
10/12 George Hudson Street
York
YO1 6LP

Tel: 01904.554643
Fax: 01904.554055

8.1.12 Each member of staff is responsible for ensuring that they make themselves aware of this policy and guidance and managers are required to ensure that staff receive sufficient training and information about MCA DOLS to undertake their role in accordance with legislation.

8.1.13 The Supervisory Body must be notified when a DOLS authorisation is no longer required during the period for which it has been granted. Staff MUST immediately notify their manager who will then notify the appropriate Supervisory Body as above.

8.1.14 Key points for the Managing Authority to consider are shown Appendix A.

8.2 Responsibilities of NYCC and CYC as Supervisory Bodies

8.2.1 NYCC and CYC are committed to ensuring that staff receive support and training to ensure successful implementation of MCA DOLS, that standards are upheld and that full compliance is achieved with legislation.

8.2.2 Supervisory Bodies are responsible for:-

- ensuring suitably qualified Mental Health Assessors and Best Interest Assessors are assigned to undertake the 6 assessments required;
- issuing *Standard* Authorisations where appropriate;
- appointing a representative for the relevant person when a Standard Authorisation has been granted;
- setting any conditions necessary in relation to the authorisation;
- setting the period of authorisation;
- arranging reviews;
- communicating information as appropriate;
- ensuring a system is in place to administer the MCA DOLS process and procedure; and
- dealing with challenges to authorisations through mediation or the complaints procedure, e.g. instructing Independent Mental Capacity Advocates (IMCAs) when appropriate, commissioning assessors when necessary, dealing with proceedings in the Court of Protection if an appeal is lodged.

- 8.2.3 Supervisory Bodies must ensure that referrals for *Standard* Authorisations are resolved within 21 days of receipt of the application and *Urgent* Authorisations within 7 days of the urgent authorisation being given (14 days in exceptional circumstances).
- 8.2.4 Standard forms and letters are available for the MCA DOLS procedure. (Summary of standard forms can be seen at Appendix B). The can also be found at:
http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_089772
- 8.2.5 8.2.5 Where a person in hospital or a registered care home is deprived of their liberty under the safeguards, the Supervisory Body is the Local Authority where the person is ordinarily resident.
- 8.2.6 Key points for the Supervisory Body to consider are shown at Appendix C and flowcharts can be found in the Annexes in the DOLS Code of Practice.
9. NYCC and CYC as both the Managing Authority and Supervisory Body
- 9.1 In some circumstances NYCC or CYC may find that they are required to act both as Managing Authority and Supervisory Body concurrently. This is permissible but the regulations require that the Best Interest Assessor must not be an employee of the Supervisory Body/Managing Authority or provide services to it. In such cases the Supervisory Body will obtain a Best Interest Assessor from another source.
- 9.2 A Managing Authority has responsibility for applying for authorisation of a DOL for any person who may come within the scope of the MCA DOLS.
10. Identifying Deprivation of Liberty: the starting point
- 10.1 Assessment for standard authorisations will be requested by Managing Authorities (See Paras. 2 & 3 of DOLS Procedure in Part 2 of this document).
- 10.2 The ECtHR has drawn a distinction between the DOL (which is unlawful unless authorised) and restrictions on the liberty of an individual. The difference between deprivation of liberty and restriction of liberty “is one of degree or intensity”.
- 10.3 In determining whether DOL has occurred, or is likely to occur, *Professionals should have regard to the Code of practice*. (See Paras. 2.5 – 2.6 of the DOLS Code of Practice). Professionals need to be aware of judgements in the Court of Protection but need to be mindful of how they may or may not apply to the individual circumstances.
- 10.4 If all the factors point to restriction or restraint of a degree or intensity exceeding the level protected by Section 5 of the MCA then the DOLS needs to be considered.

- 10.5 For guidance on deprivation or restriction and the factors to be considered see Appendix D.
- 10.6 The need to authorise Deprivation of Liberty is determined by six assessments: see the Code of Practice 4.23 - 4.76 and Part 2 of this document.
- 10.7 The MCA DOLS created two professional roles to undertake the above assessments; Mental Health Assessor and Best Interest Assessor. All six assessments must affirm whether the relevant person meets the particular criteria for MCA DOLS. Regulations govern who is eligible to undertake these roles.
- 10.8 MH Assessors are doctors who have undergone specific training and annual updates and have been approved by the Secretary of State to undertake this role. MH Assessors may undertake the mental health assessment and mental capacity assessment. If a MH Assessor is approved under Section 12 of the MHA, he may also undertake the eligibility assessment.
- 10.9 Best Interest Assessors (BIAs) may come from a variety of specified professional backgrounds: nursing, social work, occupational therapy, and psychology. They must undertake specific training and statutory annual updates to undertake this role. BIAs may undertake the age assessment, mental capacity assessment, no refusals assessment and the best interests assessment. BIAs who are approved under Section 114 of the MHA as Approved Mental Health Professionals (AMHPs) may also undertake the eligibility assessment.
- 10.10 In practice, it is envisaged that most likely the MH Assessor will carry out the Mental Health Assessment and the eligibility assessment. The BIA will undertake the remainder of the assessments.

11. Restraint and its limitations

- 11.1 Section 5 of the MCA 2005 allows certain tasks to be carried out in connection with the care or treatment of adults who lack capacity, e.g. personal care, health care and treatment. Chapter 6 of the MCA Code of Practice provides detailed guidance. If restraint is being considered, it is permitted if it is:
- necessary to prevent harm to the person who lacks capacity; and
 - a proportionate response to the likelihood of the person suffering harm; and
 - proportionate to the seriousness of that harm.

(Note: each of these conditions must be met in order for an act to be lawful.)

12. Best Interests and Least Restrictive Principles

The key principles of the MCA 2005, best interests and actions of least restriction to a person's freedom and actions are fundamental to the MCA DOLS.

13. Independent Mental Capacity Advocates (IMCA)

The IMCA role is extended under MCA DOLS. A person being assessed under MCA DOLS who is unsupported by an unpaid carer must have an IMCA instructed to support them. The IMCA's role is to support the relevant person during the assessment process, at reviews and, if considered necessary, to challenge an authorisation.

14. Relevant Person's Representative

14.1 If a person (the "relevant person") is deprived of their liberty under a standard authorisation someone who is independent of the Supervisory Body and the Managing Authority must be appointed by the Supervisory Body to represent them. The role of the Relevant Person's Representative (RPR) is to have regular contact with the relevant person, provide support at reviews and if considered necessary, challenge the grounds for the grant of a standard authorisation. RPRs will usually be unpaid carers, family or friends whom the Best Interest Assessor has nominated. Unpaid RPRs will have access to IMCAs for independent professional advice whenever required.

14.2 If a relevant person is unbefriended, the Supervisory Body must appoint someone as RPR. This person may or may not be commissioned to carry out this service but must be independent of the Supervisory Body and Managing Authority. A commissioned RPR would not usually have access to an IMCA for advice or support.

14.3 Once an authorisation has been granted, if at any time a relevant person does not have a RPR, an IMCA must be appointed. Once a RPR is appointed the role of the IMCA ends.

14.4 However, both the Relevant Person and the RPR have a statutory right to an IMCA. It is the responsibility of the Supervisory Body to instruct an IMCA if one is requested.

14.5 Where a valid LPA has been registered at the Court of Protection and covers health and welfare matters the Attorney may well be suitable to act as the RPR. It should be noted that the former EPAs, though still valid if executed before the change in legislation (1 October 2007), will not provide any power to act on behalf of a patient for the purposes of DOLS or any other health related purpose.

15. Care Quality Commission Notifications

With effect from 1 April 2010 all Providers of Services are required by law to:-

- Submit a standard CQC form notifying the CQC when an application under DOLS is made.
- Submit a standard CQC form notifying the CQC of the outcome of that application.
- Create delegation arrangements, if someone other than the 'registered person' is submitting notifications

The direct link to the 'Guidance for Registered Care Home Providers' is:-

http://www.cqc.org.uk/sites/default/files/media/documents/100098_v3_00_paper_dep_r_liberty_notification_for_publication_0.doc

The direct link to the 'Guidance for NHS Providers is:-

<http://www.cqc.org.uk/guidanceforprofessionals/adultsocialcare/complyingwiththereregulations/mentalcapacityact.cfm>

Provider Services will need to ensure that arrangements are in place in order that these obligations are met.

16. Procedure for Granting Authorisations, Duration, Conditions, Notifications, etc.

A separate Joint Procedure (Part 2 of this document) sets out the procedures for granting authorisation, setting the duration and conditions, and the notifications required etc., in relation to DOLS and it should be read in conjunction with this policy.

17. Review of Authorisations

17.1 A standard authorisation can be reviewed at any time by the Supervisory Body. See Code of Practice 8.3.

17.2 Statutory Grounds to carry out a review are:-

- the relevant person no longer meets the 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 MHA;
- 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 reasons(s) given at the time the standard authorisation was given.

- 17.3 A Managing Authority MUST request a review if at any time it appears that one or more of the qualifying requirements is no longer met, or may no longer be met.
- 17.4 Where a person's capacity to make decisions about their arrangements fluctuates on a short-term basis, a balance needs to be struck between:-
- the need to review and terminate an authorisation if a person regains capacity; and
 - spending time and resources constantly reviewing, terminating and seeking fresh deprivation of liberty authorisations as the relevant person's capacity changes.

18. Unauthorised Deprivations

- 18.1 Unauthorised deprivation of liberty is a serious matter. If anyone believes that a person is being deprived of their liberty without authorisation, they should raise this with the relevant authorities. If the conclusion is that the person is being deprived of their liberty unlawfully, this will normally result in a change in their care arrangements within 24 hours, or an application for a deprivation authorisation being made. If neither happens, the concerned person can inform the Supervisory Body of the name of the person they are concerned about and the name of the hospital or care home, explaining why they think the person is being deprived of their liberty. A standard letter is available for this purpose: see Appendix II of Part 2 of this Policy & Procedure.
- 18.2 The Supervisory Body must appoint an eligible BIA to carry out a best interest assessment to consider whether the person is being deprived of their liberty.
- 18.3 The Supervisory Body does not need to arrange an assessment if it appears that a recent assessment has been carried out in the current location and repeated requests are received or the question of whether or not there is an unauthorised deprivation has already been decided and, since that decision, there have been no changes in circumstances. The Supervisory Body should record the reasons for its decision. A standard form is available for this purpose and should be completed by a senior commissioner/manager in consultation with the appropriate BIA.
- 18.4 The Supervisory Body must notify the Safeguarding Lead of any unauthorised deprivations of liberty. (See Page 11.4 – Page 39 of Procedure)

19. Practical steps to reduce the risk of DOL

19. There are a number of ways in which Providers and Commissioners of care can minimise the restrictions imposed. The processes for staff to follow can be found at Para. 2.7 of the DOLS CoP and the North Yorkshire and York Joint Procedure. There is a DOL checklist shown at Appendix E.

20. Refusal of Authorisation

- 20.1 NYCC and CYC recognise the Code of Practice recommendations for Supervisory Bodies and other commissioners of care to purchase care packages in a way that makes it possible for Managing Authorities to comply with the outcome of the MCA DOLS assessment process when a request for a standard authorisation is refused. The commissioning of support to comply with the outcome of DOLS assessments should be from those options available through public law which are in the person's best interests.
- 20.2 Actions to be taken by Managing Authorities and Commissioners of care will depend on the reason for refusal:
- If the Best Interests Assessor concludes that the person was not, or is not likely to be, DOL, no action is likely to be necessary;
 - If the Best Interests Assessor concludes that the proposed or actual deprivation was not in the person's best interests, the Managing Authority, in conjunction with the Commissioner of the care and any person supporting self-funders will need to consider how the care plan could be changed to avoid DOL.
 - If the Mental Capacity Assessor concludes that the person has capacity the hospital will need to consider in conjunction with the Commissioner of the care how to support the person to make necessary decisions.
 - If the relevant person is assessed as not eligible to be subject to a DOL authorisation, it may be appropriate to assess whether an application should be made to detain the person under the MHA. This is a new and developing area of law and should there be any doubt about the appropriate statutory mechanism to use advice should be sought via the Legal Department.
 - If the relevant person does not have a mental disorder as defined in the MHA, the Care Plan will need to be modified to avoid a deprivation of liberty, as there would be no lawful basis for DOL in those circumstances.
 - If the person is under 18 years, use of the Children Act 1989 may be considered.
- 20.3 Deciding what action should be taken in respect of a 'self-funder' may present particular problems because the Managing Authority may not be able to make alternative care arrangements without discussing them with those controlling the funding. The desired outcome should be the provision of a care regime that does not constitute DOL.
- 20.4 Best Interest Assessors must inform the Supervisory Body and explain in their report why they reached their conclusion. The Supervisory Body must then instruct the Managing Authority to review the relevant person's care plan immediately so that unauthorised DOL does not continue. Steps taken to stop DOL should be recorded in the Care Plan and, where appropriate, family, friends and carers should be consulted in decisions on how to prevent DOL continuing.

- 20.5 The Supervisory Body must notify the certain individuals of the outcome of the assessment (See Para. 11.8 of Part 2 - DOLS Policy & Procedure).
- 20.6 A standard form that will be available for the notification should be used, and copies of various assessments should be provided to the relevant parties. This should be done as quickly as possible as alternative arrangements for the care of the person will need to be made to prevent any unauthorised DOL.
- 20.7 If the concerned person does not accept the outcome of the assessment they can challenge that assessment by way of application to the Court of Protection.

21. Court of Protection

- 21.1 Applications to the Court are invariably lengthy, extremely time consuming and expensive. Applications should only be considered after taking legal advice from the relevant Legal Services Department.
- 21.2 The Court of Protection may make an order to vary or terminate a Standard or Urgent Authorisation or direct the Supervisory Body (in the case of a Standard Authorisation) or the Managing Authority (in the case of an Urgent Authorisation) to vary or terminate the authorisation.
- 21.3 The relevant person, or someone acting on their behalf, may make an application to the Court before a decision has been reached on an application for authorisation to deprive a person of their liberty (public funding for legal advice or representation is only available to the RP or RPR). The relevant person themselves may well not have the capacity to litigate in which case a "litigation friend" must be appointed. They then act through the litigation friend. In cases where there is no suitable relative, the Official Solicitor to the Senior Courts may be invited to act as the relevant person's litigation friend and there are complex rules as to the payment of the person's costs.
- 21.4 Once a standard authorisation has been granted, the relevant person or their representative has the right to apply to the Court to determine any question relating to:-
- whether the relevant person meets one or more of the qualifying requirements for DOL;
 - the period for which the standard authorisation is to be in force;
 - the purpose for which the standard authorisation is given, or
 - the conditions subject to which the standard authorisation is given.
- 21.5 Where an urgent authorisation has been granted, the relevant person or certain persons acting on their behalf, such as a donee or Deputy, has the right to apply to the Court of Protection to determine any question relating to:-
- whether the urgent authorisation should have been given;
 - the period for which the urgent authorisation is to be in force, or

- the purpose for which the urgent authorisation has been given.

The Managing Authority should consider approaching the Court of Protection where there is a deprivation and serious disagreements between the Local Authority and the person, their family, or RPR regarding a person's best interest remains unresolved. Case Law suggests that the public body concerned should proactively bring the matter before the Court in these circumstances. It is not sufficient to say that P or his/her family themselves have recourse to the Court.

21.6 Guidance on the Court's procedures, including who has an automatic right to apply and how to make an application, can be found on the Office of the Public Guardian's website -

<http://www.publicguardian.gov.uk/>

21.7 The Court may make an order:-

- varying or terminating a standard or urgent authorisation, or
- directing the Supervisory Body (in the case of a standard authorisation) or the Managing Authority (in the case of an urgent authorisation) to vary or terminate the authorisation.

21.8 The Court has a wide ranging residuary power to make declarations as to whether a person lacks capacity or not and regarding the lawfulness or otherwise of any act done or planned. The Court may make such Orders or Declarations as it sees fit in the person's best interests.

21.9 MCA DOLS relate only to circumstances where a person is deprived of their liberty in a hospital or care home. Depriving a person of their liberty who lacks capacity to consent to arrangements made for their care or treatment in other settings (such as a person's own home, in supported living arrangements other than care home) will only be lawful following an order of the Court of Protection on a best interests personal welfare matter.

**KEY POINTS FOR MANAGING AUTHORITIES
(HOSPITALS AND CARE HOMES)**

- Managing Authorities need to adapt their care planning process to incorporate consideration of whether a person has capacity to consent to the services which are to be provided and whether their actions are likely to result in a deprivation of liberty.
- A Managing Authority must not, except in an urgent situation, deprive a person of liberty unless a standard authorisation has been given by the Supervisory Body for that specific situation, and remains in force.
- It is the responsibility of the Managing Authority to request such authorisation and implement the outcomes.
- Authorisation should be obtained from the Supervisory Body in advance of the deprivation of liberty, except in circumstances considered to be so urgent that a deprivation of liberty needs to begin immediately. In such case, authorisation must be obtained within seven calendar days of the start of deprivation of liberty.
- A Managing Authority must ensure that they comply with any conditions attached to the authorisation.
- A Managing Authority should monitor whether the relevant person's representative maintains regular contact with the person.
- Authorisation of deprivation of liberty should only be sought if it is genuinely necessary for a person to be deprived of liberty in their best interests in order to keep them safe. It is not necessary to apply for authorisations for all admissions to hospitals and care homes simply because the person concerned lacks capacity to decide whether to be admitted.

DOLS Standard Forms, and where they go

Form 1 – Urgent Authorisation (from Managing Authority)	<ul style="list-style-type: none"> • Send to Supervisory Body • Person concerned • Any IMCA appointed
Form 2 – Request for Extension of Urgent Authorisation (from Managing Authority)	<ul style="list-style-type: none"> • Send to Supervisory Body. Managing Authority must take steps to ensure that the person concerned has a copy of this form or is told in writing – if this is the case then an IMCA should also be informed
Form 3 – Decision regarding request for Extension of Urgent Authorisation	<ul style="list-style-type: none"> • Managing Authority <p>Managing Authority must take steps to ensure that the person concerned has a copy of this form or is told in writing – if this is the case then any IMCA should also be informed</p>
Form 4 – Request for Standard Authorisation (from Managing Authority)	<ul style="list-style-type: none"> • Supervisory Body (SB to also send to any IMCA instructed)
Form 5 – Age Assessment	<ul style="list-style-type: none"> • To Assessor instructed along with copy of Form 4
Form 6 – Mental Health Assessment	<ul style="list-style-type: none"> • To Assessor instructed along with copy of Form 4
Form 7 – Mental Capacity Assessment	<ul style="list-style-type: none"> • To Assessor instructed along with copy of Form 4
Form 8 – No Refusal Assessment	<ul style="list-style-type: none"> • To Assessor instructed along with copy of Form 4
Form 9 – Eligibility Assessment	<ul style="list-style-type: none"> • To Assessor instructed along with copy of Form 4
Form 10 – Best Interest Assessment	<ul style="list-style-type: none"> • To Assessor instructed along with copy of Form 4
Form 11 – Record by Supervising Body that an equivalent assessment is being used	<ul style="list-style-type: none"> • Attach the assessment that is to be used to this Form
Form 12 – Granting Standard Authority	<ul style="list-style-type: none"> • Managing Authority/Care Home and assessments. • Person being deprived of liberty and assessments • Relevant persons representative and assessments • IMCA appointed and assessments • Every person listed as interested person (on BIA's report) but not assessments
Form 13 – Declining Standard	<ul style="list-style-type: none"> • Managing Authority/Care

Authority	<p>Home and assessments.</p> <ul style="list-style-type: none"> • Person being deprived of liberty and assessments • Relevant persons representative and assessments • IMCA appointed and assessments • Every person listed as interested person (on BIA's report) but not assessments
Form 14 – Notice of Suspension of Standard Authority	<p>When received from the Managing Authority a copy should be sent to:-</p> <ul style="list-style-type: none"> • Person concerned • RPR • Any IMCA appointed
Form 15 – Notice that suspension has been lifted	<p>When received from the Managing Authority a copy should be sent to:-</p> <ul style="list-style-type: none"> • Person concerned • RPR • IMCA appointed
Form 16 – Unauthorised Deprivation of Liberty – Notice that a request has been received	<ul style="list-style-type: none"> • Send a copy to the person who made the request • Person concerned • Managing Authority/Care Home • IMCA appointed
Form 17 – Unauthorised Deprivation of Liberty Assessor's Report	<p>Once this has been received from the BIA send a copy to:-</p> <ul style="list-style-type: none"> • Person concerned • RPR • Managing Authority/Care home • IMCA appointed
Form 18 – Unauthorised Deprivation of Liberty - Supervisory Body's Decision	<ul style="list-style-type: none"> • Person who made the request • Person concerned • Managing Authority • IMCA appointed
Form 19 – Request for a Review by Managing Authority	
Form 20 – Notice that a review is being carried out	<ul style="list-style-type: none"> • Person concerned • RPR • Managing Authority/Care Home
Form 21 – Decision as to whether any qualifying requirements are reviewable	Send to BIA to arrange relevant assessments
Form 22 – Decision following review assessments	<ul style="list-style-type: none"> • Managing Authority/Care Home together with review

	<ul style="list-style-type: none"> assessments • Person concerned together with review assessments • RPR together with review assessments • IMCA appointed together with review assessments
Form 23 – Termination of Standard Authorisation	<ul style="list-style-type: none"> • Managing Authority/Care Home • Person concerned • RPR • Every interested person listed on the BIA's report • Any IMCA appointed.
Form 24 – Selection of Relevant Person's Representative – to be completed by BIA at the same time as the Best Interest Assessment is carried out	<ul style="list-style-type: none"> • To be sent to the Supervising Body
Form 25 – Appointment of RPR	<ul style="list-style-type: none"> • Person appointed • Person concerned • Managing Authority • Any Donee or Deputy of person concerned • IMCA instructed • Every interested person listed on the BIA's report
Form 26 – Notice of Termination of RPR appointment	<ul style="list-style-type: none"> • RPR
Form 27 – Termination of RPR appointment	<ul style="list-style-type: none"> • RPR • Person Concerned • Managing Authority/Care Home • Donee or Deputy • IMCA appointed • Every interested person listed on the BIA's report
Form 28 – Best Interests Assessor	<ul style="list-style-type: none"> • DOLS Admin Team to • BIA
Form 29 – Mental Health Assessor	<ul style="list-style-type: none"> • BIA to • MA Assessor
Form 30 – IMCA Referral Form	<ul style="list-style-type: none"> • DOLS Admin Team to • Cloverleaf
Form 31 – IMCA Report Form	<ul style="list-style-type: none"> • BIA to • Supervisory Body
Form 32 – Record of Assessments, Authorisations and Reviews	<ul style="list-style-type: none"> • Supervisory body

KEY POINTS FOR **SUPERVISORY BODIES**

- Supervisory Bodies will receive applications from Managing Authorities for standard authorisations of deprivation of liberty. Deprivation of liberty cannot lawfully begin until the Supervisory Body has given authorisation, or the Managing Authority has given itself an urgent authorisation.
- Before an authorisation for deprivation of liberty may be given, the Supervisory Body must have obtained written assessments of the relevant person in order to ensure that they meet the qualifying requirements (including that the DOL is necessary to protect them from harm and will be in their best interests.)
- Supervisory Bodies will need to ensure that sufficient assessors are available to meet the needs of their area and that these assessors have the skills, qualifications, experience and training to perform the function.
- Authorisation may not be given unless all the qualifying requirements are met.
- In giving authorisation, the Supervisory Body must specify its duration, which may not exceed 12 months and may not be for longer than recommended by the Best Interest Assessor. Deprivation of Liberty should not continue for longer than is necessary.
- The Supervisory Body may attach conditions to the authorisation if it considers it appropriate to do so.
- The Supervisory Body must give notice of its decision in writing to specified people, and notify others.
- The Supervisory Body must appoint a relevant person's representative to represent the interests of every person for whom they give a standard authorisation for DOL.

When an authorisation is in force, the relevant person, the relevant person's representative and any IMCA representing the individual have a right at any time to request that the Supervisory Body reviews the authorisation.

APPENDIX D

Factors to be considered	Deprivation is more likely if:	Restriction is more likely if:
Use of force to admit the person	Force (including restraint or medication) is used to take a resisting person to a hospital or care home	Benign force is used to take a confused person to a hospital or care home
Access by relatives or carers	A decision by the hospital or care home to deny or severely restrict access to the person by relatives or carers	Placing reasonable limitations on visiting the person by relatives or carers
Being prevented from leaving the hospital or care home	Force is used to prevent the person from leaving the hospital or care home in a situation where the person is making a persistent and/or purposeful attempt to leave	The person being treated or cared for in a locked environment will not automatically be DOL, however, the broader and more severe restrictions overall, the more likely it is to be a DOL.
Use of force to receive treatment or care	More than benign force is used in a non-emergency situation to ensure that a resisting person receives necessary medical treatment	The use of benign force to feed, dress or provide medical treatment for the person. The use of restraint, medication or seclusion in an emergency situation in order to respond to the person's disturbed, threatening or self-harming behaviour
Freedom of association within the hospital or care home	The person is denied freedom of association within the hospital or care home, or otherwise being subject to a care regime that severely restricts the person's autonomy	The design of door handles or the use of key pads making it difficult for a confused person to leave the hospital or care home

DEPRIVATION OF LIBERTY INDICATOR CHECKLIST
FOR MANAGING AUTHORITY

The following question should be considered about each person in a hospital ward or care home who does not have the capacity to give informed consent to being there.

Please consider the support plans for each one of your residents against this checklist. If you have anyone whose care indicates a clear yes, or some 'maybes', please request an assessment.

SECTION ONE: How the person was admitted to the hospital or care home (for future admissions).

1. **Was force or sedatives used because the person was resisting being admitted?** **Yes/ No**
This does not include the use of benign force, such as gently guiding someone by the arm.
2. **Was the person misled to make sure they co-operated?** **Yes/ No**
For instance were they misled into believing that they would return home the next day?
3. **Did the person's relatives, or carers who live with the person, object to them being admitted?** **Yes/ No**

SECTION TWO: Current arrangements

4. **Is the Person sedated to prevent them leaving?** **Yes/ No**
Use of sedatives does not in itself mean that a person is deprived of liberty – it is only relevant if the purpose is to prevent the person from leaving the establishment.
5. **Does the person make persistent or purposeful attempts to leave, which are prevented by means of force or a locked door?** **Yes/ No**
A locked door does not constitute deprivation on its own, even if its purpose is to prevent residents from wandering. Likewise for the use of benign force, such as gently guiding someone by the arm to return them when they are wandering.
This test is met only if the person's attempts to leave are persistent and/or purposeful.
6. **Is force used to treat the person when they are resisting, other than in an emergency?** **Yes/ No**
Use of benign force to administer medication, or to feed or dress someone, does not deprive someone of liberty. Emergencies could include disturbed, threatening or self harming behaviour.

7. **Have relatives or carers asked for the person to be discharged to their care, and has this request been refused?** Yes/ No
8. **Have relatives or carers been refused access to the person, or had severe restrictions put on their access?**
Reasonable restrictions such as visiting hours etc. are not relevant. Yes/ No
9. **Has the person been prevented from spending time with the people who matter to them?**
This would for instance include preventing the person from spending time with friends inside or outside the home/ward. It would **not** include guiding the person away from casual acquaintances who appear to be abusing or exploiting the person, or reasonable restrictions on the times when a person can socialise with friends, for instance because of the establishment's daily routine. Yes/ No
10. **Is the way the person's care is organised severely restrictive in what they can do in other ways?**
An example of severe restriction could be placing the person for a large proportion of their waking time in a position which prevents them from moving (e.g. using furniture which they cannot get up from). It would **not** be a severe restriction to keep the person safe, which they cannot get up from unaided, if they are usually able to get help out of it when they show a persistent or purposeful desire to do so. Yes/ No
11. **Has the person's access to the community been severely restricted because of concerns about public safety?**
It is not deprivation of liberty to require someone to be escorted on trips out of the care home/hospital, if this is in best interests of their own safety rather than that of others, even if this means that the person is sometimes **temporarily** not permitted to leave. Yes/ No

Every 'Yes' to the above questions contributes to a potential deprivation of liberty.

SECTION THREE: Actions following completion of checklist

12. **Can the person's needs be met in a less restrictive way?** Yes/ No
13. **Can any changes be made which would reduce the risk of deprivation of liberty?** Yes/ No

If you *believe* the person is likely to be deprived of their liberty, complete MCA DOLS Forms 1 & 4 and fax to the relevant Supervisory Body. Please then copy, and forward the original form 4 to:-

For all Hospitals in North Yorkshire & York:-

FOR ALL HOSPITALS IN NORTH YORKSHIRE AND YORK:

MCA DOLS Team
North Yorkshire County Council
Health & Adult Services
Ryedale House
Old Malton Road
Malton
YO17 7HH
Tel No. 01609.536232
Fax No. (Safe Haven) 01653.698133

FOR REGISTERED CARE HOMES IN NORTH YORKSHIRE:-

MCA DOLS Admin Team
Ryedale House
Old Malton Road
Malton
North Yorkshire
YO17 7HH

Tel: Help Line 01609.536232
Fax: 01609.532009

FOR REGISTERED CARE HOMES IN CITY OF YORK:-

The DOLS Team
10/12 George Hudson Street
York
YO1 6LP

Tel: 01904.554643
Fax: 01904.554055

CONTACT DETAILS FOR CORONERS

NORTH YORKSHIRE EASTERN DISTRICT: (*Scarborough, Ryedale, Hambleton*)

Coroner: Michael Oakley

CONTACT: - Coroner's Officers:-

Scarborough – 01723.509332
Northallerton – 01609.789458

NORTH YORKSHIRE WESTERN DISTRICT: (*Richmond, Selby, Harrogate, Settle, Skipton*)

Coroner: Robert Turnbull

CONTACT: Coroner's Officers:-

Harrogate Police Station,
North Park Road,
Harrogate
HG1 5PJ

Telephone: 01423 539332

Northallerton Police Station,
72 High Street,
Northallerton
DL7 8ES

Telephone: 01609 789458

York Police Station,
Stirling Road,
Clifton Moor,
York
YO30 4WT

Telephone: 01904 669332

CITY OF YORK

Coroner: Donald Coverdale

CONTACT: Coroner's Officers:-

01904.669332
01904.669332

PART 2 - PROCEDURE

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1. Managing Authority (MA)

- 1.1 It is important to reiterate that there is potential for DOL with any person. In the majority of cases the degree of restriction will fall short of DOL but Managing Authorities should have systems and care plans structured to follow the least restrictive route to minimise the likelihood of a DOL.
- 1.2 If a possible DOL is identified then the process outlined below should be followed using the standard forms. These forms should be fully completed, signed and dated by the appropriate Ward/Unit/Registered Care Home Manager/Registered Care Home Manager.
- 1.3 All original forms should be sent to and kept in a file within the MCA DOLS file in the Admin Team Office at:-

For all Hospitals in North Yorkshire & York:-

MCA DOLS Team
North Yorkshire County Council
Health & Adult Services
Ryedale House
Old Malton Road
Malton
YO17 7HH
Tel No. 01609.536232
Fax No. (Safe Haven) 01653.698133

For all Registered Care Homes in North Yorkshire:-

MCA DOLS Admin Team
Ryedale House
Old Malton Road
Malton
North Yorkshire
YO17 7HH

Tel: Help Line 01609.536232
Fax: 01609.532009

For all Registered Care Homes in City of York Council:-

The DOLS Team
10/12 George Hudson Street
York
YO1 6LP

Tel: 01904.554643
Fax: 01904.554055

- 1.4 Managing Authorities should keep copies in a separate DoLS folder of the person's case notes and must keep detailed records of all DoLS in a

central location for monitoring purposes and reporting to the Care Quality Commission.

1.5 Managing Authorities are required to notify the Care Quality Commission (CQC) when they submit a DOLS application. They are also required to notify the CQC of the outcome of that request for authorisation.

1.6 In the event of the death of a person who is currently subject to a DOL authorisation the Managing Authority is required to notify the appropriate Coroner's Office – see details at Appendix F of the Policy Section.

2. Urgent Authorisations

2.1 If it appears that it may be necessary to deprive a person of their liberty immediately, then the Managing Authority must give itself an urgent authorisation which may last up to 7 calendar days (Form 1), and must apply for a standard authorisation (Form 4) at the same time and forward the original documents to the relevant Supervisory Body as outlined at 8.1.6 of Part 1 of the Policy & Procedure by first class recorded delivery post.

2.2 In addition to ensure that statutory timescales are complied with, the forms should be faxed to the relevant Supervisory Body as outlined at 8.1.12 of Part 1 of the Policy & Procedure followed up with a telephone call to alert its impending arrival.

2.3 Copies of Form 1 should be given to:-

- the person deprived of their liberty (person)
- .any IMCA appointed.

2.4 The Managing Authority will also, as soon as possible, inform the person orally and in writing outlining:

- the personal effect the urgent authorisation will have upon them, and
- their right to make application to the Court of Protection challenging the authorisation.

2.5 In exceptional circumstances when it has not been possible for a standard authorisation to be completed, e.g., an involved family member has been unable to be contacted, then Form 2 should be completed (Request for Extension). The original Form 2 should be forwarded to the Supervisory Body (address as above). A copy should be retained by the Managing Authority. Extensions should be a rare occurrence and there should be on-going discussion with the Best Interest Assessor (BIA) to avoid this situation.

2.6 Consideration should be given to early action if the authorisation is due to expire over a week-end or bank holiday.

2.7 Where an extension is given the Managing Authority should enter details of the extension in part H of Form 1. The Managing Authority should also give a copy of the amended Form 1 to:-

- the person deprived of their liberty (person)

- any IMCA appointed.

3. Standard Authorisation

- 3.1 If no urgent authorisation is in force all assessments required for a standard authorisation (Form 4) must be completed within 21 calendar days from the date the Supervisory Body receives the request. This form should be fully completed, signed and dated by the appropriate Ward/Unit/Registered Care Home Manager and sent to the Supervisory Body at Para. 8.1.12 of the Policy & Procedure.

4. Unauthorised Deprivation of Liberty

- 4.1 Should anyone, e.g., friends and/or family, be concerned that a person in a hospital or care home is deprived of their liberty unlawfully, i.e., there is no authorisation in place, a standard format letter 1 to the Managing Authority is available: see Appendix I.

5. Suspending an Authorisation

- 5.1 If a person who is subject to a standard authorisation is later detained under the MHA then by law the standard authorisation must be suspended.
- 5.2 Also, it must be suspended if the person is liable to be detained or if the conditions and requirements imposed by a Community Treatment Order or Guardianship conflict with the terms of the standard authorisation.
- 5.3 In this event, the Managing Authority must notify the Supervisory Body that the standard authorisation should be suspended by completing and forwarding a Form 14.
- 5.4 If the person becomes eligible again to be deprived of their liberty within the following 28 calendar days following the suspension, then Form 15 should be completed by the Managing Authority and forwarded to the Supervisory Body.
- 5.5 If the suspension is not lifted within 28 calendar days then the standard authorisation ceases to have effect and will be terminated using the standard Form 23.

6. Request for Part 8 review

- 6.1 The purpose of the Part 8 review procedure is essentially to assess whether:-
- a person still meets the criteria for DOL or the reasons they do so have been changed; and
 - any conditions attached to the standard authorisation need to be varied.
- 6.2 Form 19 requesting a Part 8 review of a standard authorisation from the Managing Authority to the Supervisory Body should be completed and forwarded to the address above.

7. Supervisory Body (SB)

Upon receipt of a request for DOL the Supervisory Body must instigate action accordingly.

7.1 Standard Authorisation request

7.2 On receipt of an application, the Supervisory Body must scrutinise it to ensure it is the appropriate form (Form 4), and that it is fully completed, signed and dated by the appropriate Manager.

7.3 The Supervisory Body will check previous applications and any Form 32 that has been completed. If a potentially frivolous or vexatious application is received, and no changes have taken place since the previous assessments, the Supervisory Body (DOLS Admin Team) will contact a Senior Commissioner/Manager delegated for authorising DOLS who will make a decision on the way forward.

7.4 Where Form 4 indicates that an IMCA is required, then Form 30 should be completed by the DOLS Admin Team and forwarded to:-

Cloverleaf Advocacy
1st floor
Wellington Road
Dewsbury
WF13 1HF

Tel. 01924.454875
Fax. 01924.438444

7.5 The DOLS Admin Team will identify an appropriate Best Interest Assessor (BIA) and Mental Health Assessor according to speciality and conflict of interest guidance (see pages 42/43 of DOL Code of Practice). The Admin Team will also contact BIA by telephone to confirm availability.

7.6 The DOLS Admin Team should then complete Form 28 and forward a copy to the BIA and DOLS Admin or the BIA should contact the most appropriate MH Assessor from the Section 12 Doctor list, then complete Form 28.

7.7 Once the MH Assessor has been agreed, the DOLS Admin/BIA should share any information relevant to the assessment.

7.8 The DOLS Admin Team should then complete and forward to the MH Assessor a Form 29 (MH Assessment form), and also send a Form 6 and Form 9, together with a payment claim form to the MH Assessor. The fee covers both the mental health assessment and the eligibility elements of the standard authorisation process.

7.9 Form 4 and additional information attached to the form should be forwarded to the BIA. BIA to consult with MH Assessor as appropriate.

7.10 The DOLS Admin Team will collate all documents and retain all original forms in a file.

- 7.11 The DOLS Admin Team will enter details in DOLS Register and spreadsheet (IT system when available).
- 7.12 The order in which the six assessments will be undertaken will be determined by the Supervisory Body depending on individual circumstances.
- Age Assessment
Form 5 (will be completed by the BIA assigned to the case).
 - No Refusals Assessment
Form 8 (will be completed by the BIA assigned to the case)
 - Mental Capacity Assessment
Form 7 (will be completed by the BIA assigned to the case)
 - Mental Health Assessment
Form 6 (will be completed by a suitably trained doctor assigned to the case and forwarded to the DOLS Admin Team)
 - Eligibility Assessment
Form 9 (will be completed by the Section 12 doctor assigned to the case and forwarded to the DOLS Admin Team) - (Form 9 can be completed by the BIA if the BIA is also an AMHP)
 - Best Interest Assessment
Form 10 (will be completed by the BIA assigned to the case)

8. Urgent Authorisation

- 8.1 The Supervisory Body will receive a copy of the completed Form 1 giving urgent authorisation by the MA and also Form 4 requesting a standard authorisation (see guidance below relating to Standard Authorisations).
- 8.2 In the event of unavoidable delay and when the assessments cannot be fully completed within the 7 days statutory period and it becomes necessary to extend this period then the Managing Authority must submit a (Form 2) request to the Supervisory Body. The Supervisory Body may then extend for up to a further 7 days, in exceptional circumstances, and will record its decision by using Form 3.

9. Collation of Assessments

- 9.1 All six assessment forms, and Form 31 if an IMCA has been appointed (and in the case where a BIA is recommending a DOLS authorisation a Form 24) are to be collated by the BIA and then forwarded to the Supervisory Body (see Para. 8.1.12 at Part 1 of the Policy & Procedure.)
- 9.2 Assessors must keep a written record of each assessment that they carry out.
- 9.3 The BIA will also need to identify the most appropriate person to be the relevant person's representative and complete Form 24. If an eligible person is deemed unsuitable to be RPR then the BIA must complete a continuation sheet with the reasons for that conclusion.
- 9.4 All the above forms should be sent to, and received by, the Supervisory Body at least one working day before the DOL decision is required.

10. Authorisation by Supervisory Body (Standard Authorisation)

- 10.1 On receipt of Forms 6 – 10 and 24, the MCA DOLS Administrator must immediately alert appropriate Senior Manager(s) to inform them a DOLS application has been received.
- 10.2 The MCA DOLS Administrator must arrange to forward a copy of the forms to a Senior Manager to consider the application.
- 10.3 The MCA DOLS Administrator should then enter in the register and spreadsheet the details of which Senior Manager(s) are considering the application (and on the IT system when available).
- 10.4 Senior Manager(s), upon receipt of the appropriate information, must take account of all the information contained in the assessment forms and, if all the requirements are fulfilled, then they must authorise a DOL, by completing Form 12. Senior Manager(s) have no discretion to refuse authorisation if all requirements are fulfilled.
- 10.5 Any conditions recommended by the BIA must be considered. These can be accepted, altered, or discarded by the Senior Manager(s), giving full reasons for this. Amendments should be discussed with the BIA. Senior Manager(s) can also attach their own conditions but they must be clear, capable of being complied with, and relevant to the DOL.
- 10.6 The duration of the authorisation may not be longer than that recommended by the BIA, may be no longer than 12 months, and should be the shortest duration possible.
- 10.7 Senior Manager(s) must decide who will sign the Form 12 authorising the DOL.
- 10.8 The Senior Manager(s) signing off the authorisation must forward the Form 12 to the MCA DOLS Administrator.
- 10.9 The Senior Manager(s) must also complete Form 25, identifying the appointment of the relevant person's representative as recommended by the BIA.
- 10.10 The Senior Manager(s) must also complete Form 32, the record of assessments, authorisations and Part 8 reviews. This form must be updated on each occasion that the case is Part 8 reviewed.
- 10.11 All original forms should be kept by the MCA DOLS Administrator.
- 10.12 The MCA DOLS Administrator must inform the MA verbally immediately the outcome of the DOLS application is known.
- 10.13 The MCA DOLS Administrator must arrange for immediate scrutiny of DOLS forms via MCA & DOL Lead or MH Law Adviser.
- 10.14 The MCA DOLS Administrator must arrange for the appointment of a Relevant Person's Representative (RPR) as recommended by the BIA. The RPR should be notified in writing; this should be followed up with another letter confirming the appointment when the PRP has agreed.
- 10.15 If the BIA makes no RPR recommendation, or the RPR approached does not wish to undertake this role, the MCA DOLS Administrator should

report back to the Senior Manager(s) who will identify an eligible and suitable person who is willing to be appointed.

10.16 The MCA DOLS Administrator must document the decision in the Register and spreadsheet (IT system when available).

10.17 The expiry date of the authorisation will be recorded in the register and spreadsheet and a date entered in the bring-forward diary to consider further assessments for another period of authorisation of the DOL.

10.18 As a general rule, 21 calendar days prior to the expiry of authorisation the Managing Authority should either complete a standard authorisation request (Form 4) or complete a request for a Part 8 (Form 19) if they consider the person no longer meets the criteria.

10.19 If a DOL is authorised for less than 28 days, the new assessment date will be 10 calendar days prior to expiry.

10.20 The MCA DOLS Administrator must then forward copies of the assessment report and copies of the DOL authorisation (once scrutinised) to:-

- the Managing Authority
- the relevant person
- the relevant persons representative and
- any IMCA instructed.

10.21 The MCA DOLS Administrator should also send to any person named by the BIA in their report as an interested person whom they have consulted in carrying out their assessments a copy of the standard authorisation only. Such persons are NOT entitled to receive a copy of the assessments.

10.22 It is the responsibility of the Managing Authority to inform the relevant person, relevant person's representative and any Section 39D IMCA instructed of the effect of the authorisation and their statutory rights.

10.23 The Managing Authority is required to notify the Care Quality Commission that the DOL request has been granted.

11. Standard Authorisation Not Granted

11.1 If a Senior Manager(s), having considered the assessments, finds that one or more of the required assessments fail then an authorisation will not be granted and a Form 13 must be completed.

11.2 The MCA DOLS Administrator must then forward copies of Form 13 and Forms 5 -10 to the:-

- the Managing Authority
- the relevant person
- the relevant persons representative and
- any IMCA instructed.

- 11.3 The MCA DOLS Administrator should also send a copy of Form 13 only to interested persons named by the BIA whom they have consulted in carrying out their assessments. Such persons are NOT entitled to receive a copy of the assessment forms.
- 11.4 If a DOL is not authorised, and the Senior Manager(s) has made a recommendation for further action, the MCA DOLS Administrator must follow up this action. This may include referral to the Safeguarding Lead if indicated by the Authorisation Panel.
- 11.5 The MCA DOLS Administrator must document the decision in the Register and spreadsheet (IT system when available).
12. Unauthorised DOL
- 12.1 If Senior Manager(s) receive a letter of request (standard format letter 2 is available for this purpose see Appendix II) to decide whether or not there is an unauthorised DOL then the Senior Manager(s) should record the request using Form 16.
- 12.2 An assessment is not required if the request is frivolous or vexatious and the issue has already been decided by the Senior Manager(s), and there has been no change in the person's circumstances since then.
- 12.3 MCA DOLS Administrator must send copies of Form 16 outlining the decision to:-
- the person making the request
 - the person to whom the request relates
 - the Managing Authority of relevant hospital or care home and
 - any IMCA instructed under Section 39A MCA.
- 12.4 The MCA DOLS Administrator should enter details in the Register and spreadsheet (IT system when available).
- 12.5 If an assessment is required, the MCA DOLS Administrator will contact a BIA who will carry out the assessment and record their decision on Form 17.
- 12.6 MCA DOLS Administrator must send copies of Form 17 outlining the decision to:-
- the person to whom the request relates
 - the Managing Authority of relevant hospital or care home and
 - any IMCA instructed under Section 39A MCA.
- 12.7 The MCA DOLS Administrator should enter details in the Register and spreadsheet (IT system when available).
- 12.8 The Senior Manager(s) having received Form 17 and made a decision must complete Form 18 confirming that decision.

12.9 If the decision is that there is an unauthorised DOL, then the MCA DOLS Administrator must arrange for the assessments to be carried out as outlined in paragraph 8.4 – 8.11 above.

12.10 Also, the MCA DOLS Administrator will forward copies of Form 18 to:-

- the person who made the request
- the person who is possibly being deprived of their liberty
- the Managing Authority of the hospital or car

12.11 If the Managing Authority grants itself an urgent authorisation following receipt of Form 18 then they will complete Form 1 and submit it to the Supervisory Body.

12.12 This will require the necessary assessments being completed within 7 calendar days. The MCA DOLS Administrator must then begin the standard authorisation assessment process as outlined in paragraph 8.4 – 8.11 above.

13. Suspension of Standard Authorisation

13.1 When a Managing Authority suspends a standard authorisation and submits Form 14, the MCA DOLS Administrator must enter details in the register and spreadsheet (IT system when available) and forward a copy to:-

- the person concerned and
- and the relevant person's representative.

The original form is to be filed in the person's original DOL file.

13.2 When a Managing Authority lifts a suspension and forwards a Form 15 to the Supervisory Body, the MCA DOLS Administrator should enter details in the register and spreadsheet (IT system) and forward a copy to:-

- the person
- the person's representative and
- IMCA instructed under Section 39D MCA.

13.3 If the suspension is not lifted within 28 calendar days then the standard authorisation ceases to have effect and the authorisation is formally terminated.

13.4 Senior Manager(s) must complete Form 23 and make copies available to:-

- the Managing Authority
- the person's representative
- the relevant person and
- every interested person whom the BIA has consulted.

13.5 The MCA DOLS Administrator should enter details in the register and spreadsheet (IT system when available.)

14. When an authorisation is due to expire
- 14.1 An automatic reminder from the Supervisory Body to the Managing Authority will take place prior to the expiry date of a standard authorisation. If the Managing Authority requires a further period of authorisation then they need to complete a standard authorisation request (Form 4) 21 days prior to the expiry date.
- 14.2 In addition, if the Managing Authority considers that the criteria for DOL may not be met, then a Part 8 review can be requested in writing (standard format letter 3 and 4 available for this purpose at Appendix III and Appendix IV) or orally by:-
- the person and
 - the person's representative
or
 - the Managing Authority via the submission of Form 19 to the Supervisory Body.
or
 - Senior Manager(s) themselves may decide to carry out a Part 8 review by completing a Form 20.
- 14.3 The MCA DOLS Administrator must send copies of Form 20 to:-
- the person
 - the person' representative and
 - the Managing Authority of the Hospital or Care Home.
- 14.4 The MCA DOLS Administrator should enter details in the register and spreadsheet (IT system when available).
- 14.5 Form 21 should be completed by Senior Manager(s) to determine which of the qualifying requirement(s) is/are to be reviewed.
- 14.6 Part 8 review of the assessments is to be recorded on the usual standard forms (Forms 5-10) by the relevant assessors.
- 14.7 The BIA will co-ordinate all assessments and complete Form 24 (selection of representative).
- 14.8 When the standard authorisation comes to an end, Form 26 (notice of pending termination of appointment as representative) must be completed and signed by a Senior Manager(s).
- 14.9 MCA DOLS Administrator must send a copy to the representative.
- 14.10 Senior Manager(s) must document their decision using Form 22.
- 14.11 The MCA DOLS Administrator must send copies of Form 22 to:-
- the Managing Authority of the hospital or care home
 - the person
 - the person's representative
 - any Section 39D IMCA.

15. Termination of standard authorisation

- 15.1 If Senior Manager(s), having considered the information in the relevant assessment forms, decide(s) to terminate the standard authorisation, they should complete Form 23.
- 15.2 The MCA DOLS Administrator must send copies of Form 23 to:-
- the Managing Authority of the hospital or care home
 - the person
 - the person's representative
 - every interested person whom the BIA has consulted.
- 15.3 The MCA DOLS Administrator must enter details in the Register and spreadsheet (IT system when available).
- 15.4 If Senior Manager(s), having considered the information in the relevant assessment forms, decides that an authorisation needs to remain in place then Form 12 must be completed.
- 15.5 Senior Manager(s) must then appoint a representative by completing and signing Form 25.
- 15.6 The MCA DOLS Administrator must send copies of Form 25 to:-
- the person appointed
 - the person
 - the Managing Authority
 - any donee of a Lasting Power of Attorney or
 - deputy appointed by the Court of Protection
 - any IMCA and
 - every interest person whom the BIA has consulted.
- 15.7 Senior Manager(s) must update Form 32 (Record of assessment, authorisations and Part 8 reviews).
- 15.8 The MCA DOLS Administrator must send copies of the Form 12 to:-
- the Managing Authority of the hospital or care home
 - the person
 - the person's representative
 - every interested person whom the BIA has consulted and
 - any IMCA instructed under Section 39A MCA.
- 15.9 The MCA DOLS Administrator must enter details in the Register and spreadsheet (IT system when available).
- 15.10 At the end of the authorisation, the representative's appointment must be terminated by a Senior Manager(s) by completing Form 27.
- 15.11 MCA DOLS Administrator must send copies of Form 27 to:-
- the person who is, or was, subject to the DOL
 - the Managing Authority
 - the donee of an LPA
 - a deputy appointed by the Court of Protection
 - any IMCA

- every interested person whom the BIA has consulted.

15.12 MCA DOL Administrator must enter details in the Register and spreadsheet (and IT system when it becomes available).

Note: The Senior Manager(s) at the point of considering the Part 8 review will be both terminating the appointment of the existing representative and appointing a new representative should the authorisation be Part 8 reviewed. In some instances this will be the same representative named previously.

16. Implementation

16.1 The final procedure/guidance document will be placed on NYCC, CYC, and CCG intranets and will be available to all staff. The relevant Service Managers have responsibility for ensuring that staff members are sufficiently informed and prepared to implement the procedure. Dissemination procedure will take place across all Managing Authorities.

17. Monitoring & Audit

17.1 Service Managers have responsibility for monitoring implementation of this policy and procedure within their Department and will also ensure that all new or temporary staff are made aware of this via the induction process.

17.2 Auditing will take place via local auditing procedures. The Care Quality Commission will monitor the effectiveness of this procedure during Commission visits.

18. Consultation

18.1 This policy/procedure has been circulated for comment to members of the Mental Health Policy Group, MCA Deprivation of Liberty Steering Group, and Provider Governance Committee. It is based on the guidance detailed in the Code of Practice for both the MCA and DOLS, and the Department of Health publication 'DOLS Forms and Record-Keeping'. It is designed to support and guide staff through the process of application, assessment, authorisation and Part 8 review etc.

19. References

Mental Capacity Act 2005

Mental Capacity Act 2005 Code of Practice

MCA 2005 Deprivation of Liberty Safeguards Code of Practice

Mental Health Act 1983 (as amended by MHA 2007)

Department of Health: Deprivation of Liberty Safeguards –

Forms and Record-Keeping – 27 February 2009

Checklist - acknowledgement - Kent & Medway Implementation Network.

JMB/policy-MCADOLS Review-11Feb2013

Deprivation of Liberty Letter 1
Letter to Managing Authority concerning unauthorised deprivation of liberty
Sender's address Contact telephone number Date
Name and address of Managing Authority
Dear Sir/Madam
Re (name of person/resident)
I am writing to you about the above named person, who is accommodated in your hospital/are home (delete as applicable).
I am the person's (state relationship or interest in the matter, e.g., 'child', 'friend' 'representative', etc.)
It appears to me that this person lacks capacity to consent to the arrangements made for their care or treatment and is subject to an unauthorised deprivation of liberty. I am therefore writing, in accordance with the provisions of the Mental Capacity Act 2005, to ask you to give an urgent deprivation of liberty authorisation and to request a standard authorisation from the Supervisory Body.
My reasons for believing this person is subject to an unauthorised deprivation of liberty are that (please state briefly reasons)
As I am sure you know, if you do not request the standard authorisation within a reasonable period, I may ask the Supervisory Body to decide whether or not there is an unauthorised deprivation of liberty.
Thank you for your consideration of this matter.
Yours faithfully
Signature
Name of Sender in BLOCK CAPITAL
The use of this letter is not mandatory. However, any oral or written request should include the information in bold in the above letter.

Deprivation of Liberty Letter 2
Letter to Supervisory Body concerning unauthorised deprivation of liberty
Sender's address Contact telephone number Date
Name and address of Supervisory Body
Dear Sir/Madam
Re (name of person/resident)
I am writing to you about the above named person, who is accommodated in (name and address of hospital or care home).
I am the person's (state relationship or interest in the matter, e.g., 'child', 'friend' 'representative', etc.)
On (enter date) I wrote to/spoke with the Managing Authority of the (name of hospital or care home). I informed them that it appeared to me that this person lacked capacity to consent to the arrangements made for their care or treatment and is subject to an unauthorised deprivation of liberty. I asked them to give an urgent deprivation of liberty authorisation and to request a standard authorisation in accordance with the provisions of the Mental Capacity Act 2005.
My reasons for believing this person is subject to an unauthorised deprivation of liberty are that (please state briefly reasons)
I understand that the Managing Authority has not requested a standard authorisation.
I am therefore writing to make a formal request that you now decide whether or not this person is subject to an unauthorised deprivation of liberty.
Thank you for your consideration of this matter.
Yours faithfully
Signature
Name of Sender in BLOCK CAPITAL
The use of this letter is not mandatory. However, any oral or written request should include the information in bold in the above letter.

Deprivation of Liberty Letter 3
Letter to Supervisory Body requesting a Part 8 review from a person subject to a standard authorisation
Sender's address Contact telephone number Date
Name and address of Supervisory Body
Dear Sir/Madam
My deprivation of liberty under a standard authorisation
I am deprived of liberty at (enter name of hospital/care home).
I am writing to request that you conduct a Part 8 review under Part 8 of Schedule A1 to the Mental Capacity Act 2005 of the standard authorisation that permits me to be deprived of my liberty there.
My reason(s) for requesting a Part 8 review is / are (briefly state reasons)
.....
.....
.....
Thank you for your consideration of this matter.
Yours faithfully
Signature
Name of Sender in BLOCK CAPITAL
The use of this letter is not mandatory. A request may be made orally by a different letter of the person's choosing, or in any other way the person wishes.

Deprivation of Liberty Letter 4
Letter to the Supervisory Body requesting a Part 8 review of a standard authorisation from a relevant person's representative
Sender's address Contact telephone number Date
Name and address of Supervisory Body
Dear Sir/Madam
Re (name of person/resident)
I am writing to you about the above named person, who is deprived of their liberty at (enter name of hospital/care home).
I am the relevant person's representative.
I am writing to request that you conduct a Part 8 review under Part 8 of Schedule A1 to the Mental Capacity Act 2005 of the standard authorisation that permits their deprivation of liberty.
My reasons for believing this person does not meet the qualifying requirements for being deprivation of liberty under a standard authorisation are as follows:
(briefly state your reasons)
.....
.....
Optional additional paragraph – Should this not eventually be accepted, in my view the conditions attached to the standard authorisation should be relaxed.
(briefly state how, and your reasons)
.....
.....
Thank you for your consideration of this matter.
Yours faithfully
Signature
Name of Sender in BLOCK CAPITAL
The use of this letter is not mandatory. A request may be made orally, by a different letter of the person's choosing, or in any other way the person wishes.

FORMS FOR USE BY MEDICAL ASSESSOR

Form 6	Mental Health Assessment
Form 9	Eligibility Assessment
	Claim for fees

FORMS FOR USE BY BEST INTEREST ASSESSOR

Form 5	Age Assessment
Form 7	Mental Capacity Assessment
Form 8	No refusals assessment
Form 10	Best Interest Assessment
Form 17	Unauthorised deprivation of liberty assessor's report
Form 24	Selection of a representative
Form 29	Mental Health Assessor referral form

FORMS FOR USE BY SUPERVISORY BODY**A. Authorisation Panel**

Form 3	Request for extension of urgent authorisation
Form 12	Standard authorisation
Form 13	Standard authorisation not granted
Form 16	Notice that a request has been received
Form 18	Unauthorised deprivation of liberty Supervisory Body decision
Form 20	Notice that Part 8 review is to be carried out
Form 21	Supervisory Body's decision as to whether any qualifying requirements are Part 8 reviewable
Form 22	Supervisory Body's decision following Part 8 review
Form 23	Standard authorisation has ceased to be in force
Form 25	Appointment of a representative
Form 26	Notice of pending termination of a representative
Form 27	Termination of a representative's appointment
Form 32	Record of assessments, authorisations and Part 8 reviews.

B. MCA DOLS Admin

Form 28	Best Interest Assessor referral form
Form 30	IMCA Referral form

FORMS FOR USE BY MANAGING AUTHORITY

Form 1	Urgent Authorisation
Form 2	Request for extension of urgent authorisation
Form 4	Request for standard authorisation
Form 14	Suspension of a standard authorisation
Form 15	Notice that a suspension has been lifted
Form 19	Request for a Part 8 review by the Managing Authority

FORMS FOR USE BY IMCA

Form 31	IMCA Report form
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MANAGING AUTHORITY CHECKLISTS:-

A	Giving self urgent DOL authorisation
B	Standard Authorisation
C	Suspending an Authorisation
D	Notice that Suspension has been lifted
E	Request for a Part 8 review

FOR SUPERVISORY BODY CHECKLISTS:-

F	Standard Authorisation
G	Request for extension to urgent DOL
H	Authorisations Not Granted
I	Unauthorised DOL
J	Suspending an Authorisation
K	Notice that Suspension has been lifted
L	Notice that a Part 8 review is to be carried out
M	Selection and appointment of RPR

CHECKLIST FOR MANAGING AUTHORITY - SELF URGENT DOL AUTHORISATION

Name of relevant person:

Name of Managing Authority:

Name of person making application:

Date application made and sent to Supervisory Body:

GIVING SELF URGENT DOL AUTHORISATION	YES	NO
Has Form 1 been completed?		
Has the Form been signed?		
Has the form been dated?		
Has each box been completed as appropriate?		
If answer is 'no' to any question, contact person who completed form.		
If answer is 'yes' to each question, then progress.		
Has a copy of Form 1 been given to person deprived of their liberty		
Has a copy of Form 1 been given to any IMCA appointed?		
Has a letter been sent to the person deprived of their liberty outlining the effect of the DOL and their right to make application to the Court of Protection?		
Has a copy of Form 1 been filed in a separate DOLS folder to be kept with person's case notes?		
Has a copy of Form 1 been sent to central location for audit/monitoring purposes?		
Has original Form 4 been completed at the same time as Form 1 and faxed and posted to the Supervisory Body?		
NB In exceptional circumstances when it has not been possible for a standard authorisation to be completed then Form 2 should be completed (request for extension).		
Has Form 2 been completed?		
Has Form 2 been signed?		
Has Form 2 been dated?		
Has Form 2 been faxed immediately to Supervisory Body?		
Has original Form 2 been posted to Supervisory Body?		
Has a copy of Form 2 been filed in a separate DOLS folder to be kept with person's case notes?		
Has a copy of Form 2 been sent to central location for audit/monitoring purposes?		
Have details been entered in part H of Form 1?		
Has copy of amended Form 1 been given to the person DOL?		
Has copy of amended Form 1 been given to any IMCA appointed?		

CHECKLIST FOR MANAGING AUTHORITY – STANDARD AUTHORISATION

Name of relevant person:

Name of Managing Authority:

Name of person making application:

Date application made and sent to Supervisory Body:

REQUEST FOR STANDARD AUTHORISATION	YES	NO
Has alternative care regimes been considered before completing a Form 4?		
Has Form 4 been completed?		
Has the Form 4 been signed?		
Has the Form 4 been dated?		
Has each box been completed as appropriate?		
If answer is 'no' to any question, revisit the form and complete.		
If answer is 'yes' to each question, then progress.		
Has Form 4 been faxed and posted to the Supervisory Body.		
*Have you notified the CCQ of your DOLS application?		
<i>After assessments completed:-</i>		
Have you received a copy of Form 12 (DOL authorisation).		
If answer is 'yes' then		
Have you informed relevant parties as outlined in Para 11.18 of procedure?		
Has a copy of Form 4 been filed in a separate DOLS folder, to be kept with person's case notes?		
Has a copy of Form 4 been sent to central location for audit/monitoring purposes?		
*Have you notified CQC of the outcome of the DOLS application?		

NB If standard authorisation is NOT granted, then a Form 13 will be issued and forwarded to the Managing Authority. This should be filed in the relevant section of the person's case notes.

***FOR ALL HOSPITALS THIS IS EFFECTIVE FROM 01.04.10
AND FOR REGISTERED CARE HOMES IT IS EFFECTIVE FROM 01.10.10**

PLEASE NOTE: IN EVENT OF A DEATH OF A PERSON WHO IS CURRENTLY SUBJECT TO DEPRIVATION OF LIBERTY UNDER THE SAFEGUARDS THERE IS A REQUIREMENT TO INFORM THE APPROPRIATE CORONER'S OFFICER.

CHECKLIST FOR MANAGING AUTHORITY – SUSPENDING AN AUTHORISATION

Name of relevant person:

Name of Managing Authority:

Name of person reporting suspension:

Date of Mental Health Act detention or
date of new conditions to an existing MHA Section
eg., Community Treatment Order or Guardianship:
.....

(Reasons might be where the DOLS specify residence at a particular hospital/care home and the CTO or Guardianship specifies residence at a different hospital/care home).

(Initials in these columns
rather than a tick)

CHECKLIST - SUSPENDING AN AUTHORISATION	YES	NO
Have papers detaining the relevant person under a Section of the Mental Health Act been completed and received on behalf of the Hospital Managers OR has Guardianship been agreed with the Director of Social Services?		
If no, then DOL continues.		
If yes, then proceed as follows:-		
Has Form 14 been completed?		
Has Form 14 been signed?		
Has Form 14 been dated?		
Has the Form 14 been faxed and posted to the Supervisory Body?		
Has a copy of Form 14 been filed in a separate DOLS folder, to be kept with person's case notes?		
Has a copy of Form 14 been sent to central location for audit/monitoring purposes?		
Has a copy of Form 14 been given to the relevant person?		
Has a copy of the Form 14 been given to the relevant person's representative?		

CHECKLIST FOR MANAGING AUTHORITY – NOTICE THAT SUSPENSION HAS BEEN LIFTED

Name of Managing Authority:

Name of person making application:

Date of Mental Health Act detention or date of new conditions to an existing MHA Section eg., Community Treatment Order or Guardianship:

(Reasons might be where the DOLS specify residence at a particular hospital/care home and the CTO or Guardianship specifies residence at a different hospital/care home).

Date suspension lifted:
(NB: suspension can only be lifted within 28 calendar days, inclusive of the original Mental Health Act detention/conditions).

(Initials in these columns rather than a tick)

NOTICE THAT SUSPENSION HAS BEEN LIFTED	YES	NO
Is the person no longer subject to detention under the Mental Health Act or conflicting conditions attached to CTO or Guardianship etc.		
Is it less than 28 days from the original suspension of DOL authorisation?		
If 'no' to either of the above questions, then DOLS authorisation comes to an end.		
If 'yes', then progress as follows:		
Has Form 15 been completed?		
Has Form 15 been signed?		
Has Form 15 been dated?		
Has Form 15 been faxed to the Supervisory Body?		
Has original Form 15 been posted to the Supervisory Body?		
Has a copy of Form 15 been filed in a separate DOLS folder, to be kept with person's case notes?		
Has a copy of Form 15 been sent to central location for audit/monitoring purposes?		

CHECKLIST FOR MANAGING AUTHORITY – REQUEST FOR PART 8 PART 8 REVIEW BY MA

Name of relevant person:

Name of Managing Authority:

Name of person making application:

Date of planned formal Part 8 review:

(Initials in these columns rather than a tick)

CHECKLIST – REQUEST FOR A PART 8 REVIEW BY MA	YES	NO
Does the Managing Authority believe a DOL is no longer required?		
If yes:-		
Has care plan been adjusted or changes implemented?		
Has Form 19 been completed?		
Has Form 19 been signed?		
Has Form 19 been dated?		
Has Form 19 been faxed to Supervisory Body?		
Has original Form 19 been sent to Supervisory Body?		
Has a copy of Form 19 been filed in a separate DOLS folder, to be kept with person's case notes?		
Has a copy of Form 19 been sent to central location for audit/monitoring purposes?		

Reminder: Even if the patient is being discharged, or has died, the MA must still submit a Form 19 to the Supervisory Body. In the event of a death, the Managing Authority must notify the appropriate Coroner- details at Appendix F of the Policy Section.

CHECKLIST FOR SUPERVISORY BODY – STANDARD AUTHORISATION

Name of relevant person:.....

Name of Managing Authority:

Name of person making application:.....

Date application made by Managing Authority :

Date received by Supervisory Body:

Check Part C (C1) – page 10 of Form 4. Is the person ‘ordinarily resident’ to this Supervisory Body?	No	Contact the appropriate Supervisory Body and advise them the MA has inadvertently sent the forms to our SB.	Ask them if they wish to act on us to act on their behalf. If so, commence assessment process. (NHS protocol or ADASS protocol) will be used - Contact MCA & DOL Lead). If they wish to follow up themselves, make arrangements to forward papers to them. Document details in register/data base.
	Yes	Follow checklist below.	

Is the standard application a result of the MA giving themselves an ‘urgent’ authorisation?	Yes	No	
If ‘yes’, has Form 1 been received, and checked that all boxes are completed and signed.	Yes	Date ‘urgent’ authorisation given.	No - then (contact MA immediately, for Form 1 - and also ensure Form 4 has been submitted at same time.

(initials in these columns rather than a tick)

REQUEST FOR STANDARD AUTHORISATION	YES	NO
DOLS Administrator:		
Has Form 4 been completed?		
Has the Form 4 been signed?		
Has the Form 4 been dated?		
Has each box been completed as appropriate?		
If answer is ‘no’ to any question, revisit the form and complete.		
If answer is ‘yes’ to each question, then progress.		
Has there been any previous application?		
If yes, then has circumstances changed since last application?		
If no change in circumstances, then contact Senior Manager(s) for advice on way forward.		
If yes, then proceed with assessment arrangements.		
Is an IMCA required?		
If yes, then DOLS Administrator completes Form 30 and forward to Cloverleaf Advocacy.		
Has MH/Eligibility Assessor been appointed?		
Has Form 29 been completed and forwarded to MH Assessor?		
Has Form 6 and Form 9 been forwarded to MH Assessor?		
Has payment claim form been sent to MH Assessor ? On completion, has the form been signed and sent off for payment?		

<i>Immediately</i> - identify most appropriate BIA from BIA list.		
Complete Form 28 and forward a copy and fax to BIA.		
Have you advised both Assessor of the latest day for return of completed assessment forms?		
Have you confirmed with the Authorisation Panel member the date and time they will be required to consider the DOL application?		
Fax Form 4 and any additional information to BIA.		
Collate all documents and retain all originals in file.		
Have details been entered in register?		
Have details been entered on the spreadsheet (IT System when available)		
BIA:		
Has age assessment Form 5 been completed?		
Has no refusals assessment Form 8 been completed?		
Has Mental Capacity Assessment Form 7 been completed?		
Has Best Interest Assessment Form 10 been completed?		
Has BIA consulted with MH Assessor as appropriate?		
If IMCA appointed, has Form 31 been completed?		
Has Form 24 identifying RPR been completed?		
Collate all forms and forward to Supervisory Body (DOLS Admin Team)		
NB If one of the assessments fails to meet the criteria, halt all other assessments, then		
Has Form 10 been completed giving reasons why criteria not met?		
Has all other forms completed prior to cessation of assessment been sent to the Supervisory Body?		
DOLS Administrator		
On receipt of Forms 6-10, 24, (and 31 if appropriate), collate and pass to Senior Manager(s) Panel.		
Have details been entered in register?		
Have details been entered on the spreadsheet (IT System when available)		
SB Authorising Panel		
Are all requirements met?		
If yes, complete Form 12.		
Have conditions been considered?		
Have Panel's conditions been considered (if appropriate)?		
If conditions changed or added to, has Panel contact BIA to discuss?		
Has time limit been set on authorisation?		
Have Panel members signed Form 12?		
Has Panel member dated Form 12?		
Has Form 25 been completed, signed and dated?		
Has Form 32 been completed? (front sheet completed and bottom of page 2 signed and dated)		
Have original Forms 12, 25 and 32 been forwarded to DOLS Administrator?		

DOLS Administrator		
On receipt of Forms. Check – has RPR been identified and confirmed (signed) on Form 24?		
If not, section 'f' of Form 25 needs to be completed by RPR - has page 4 for RPR to complete been sent out? (Keep photocopy before sending out until original returned)		
Has a RPR been identified on Form 25?		
If not, has the Senior Manager(s) been advised?		
When confirmed, refer to RPR Provider. (Cloverleaf)		
Have details been entered in the Register?		
Have details been entered on the spreadsheet (IT System when available)		
Has fax been sent to the BIA & MH Assessor, including a request to remind the MA to notify the CQC.		
Has the reminder re expiry date been entered in diary. [21 calendar days prior to expiry (and 10 calendar days for authorisation of less than 28 days)]		
Have copies of assessment reports and DOL authorisation been forwarded to those identified in 11.18 of procedure?		
Has the MA been informed verbally of outcome of application?		
Has letter been sent to MA confirming authorisation, including reminder that MA need to notify CQC?		
Has the BIA been notified of the outcome?		

For use by MCA DOLS Admin Team below this line

NOTES:

IT IS IMPORTANT TO CHASE UP ANY OUTSTANDING ISSUES THAT ARISE, E.G., UNSIGNED FORMS ETC, AND CONTINUE TO UPDATE YOURSELF WITH WHAT PROGRESS IS BEING MADE, IF REQUIRED.

CHECKLIST FOR **SUPERVISORY BODY AUTHORISATION PANEL**
(Request for extension to urgent DOL)

Name of relevant person:

Name of Managing Authority:

Name of person making application:

Date application made by Managing Authority:.....

Date received by Supervisory Body:

(initials in these
columns
rather than a tick)

REQUEST FOR EXTENSION TO URGENT DOL	YES	NO
Has Form 2 been received?		
Has the Form been signed?		
Has the form been dated?		
Has each box been completed as appropriate?		
If answer is 'no' to any question, contact the Managing Authority		
If answer is 'yes' to each question, then progress.		
Senior Manager(s) to complete Form 3		
MCA DOL Admin:		
Has form 3 been received?		
Has the form been signed?		
Has the form been dated?		
Has each box been completed as appropriate?		
If answer is 'no' to any question, refer back to Senior Manager(s)		
If the answer is 'yes' to each question, then progress.		
Has the MCA DOL Admin sent copy of Form 3 to Managing Authority?		
Have details been entered in the DOLS Register?		
Have details been entered on spreadsheet ? (IT System when available)		
Have all original documents been filed in the person's MCA DOL file?		
Now refer to Standard authorisation.		

For use by DOLS Admin Team below this line:

NOTES:

CHECKLIST FOR **SUPERVISORY BODY** – Authorisations NOT Granted

Name of relevant person:

Name of Managing Authority:

Name of person making application:

Date application made by Managing Authority:

Date received by Supervisory Body:

(Initials in these columns
rather than a tick)

REQUEST FOR STANDARD AUTHORISATION <u>NOT</u> GRANTED	YES	NO
Supervisory Panel:		
Has Form 13 been completed?		
Has the Form 13 been signed?		
Has the Form 13 been dated?		
Has each box been completed as appropriate?		
If answer is 'no' to any question, revisit the form and complete.		
If answer is 'yes' to each question, then progress.		
Has Form 13 been forwarded to DOL Administrator?		
DOL Administrator		
Has Form 13 been sent to appropriate parties as outlined in 12.2 of procedure?		
Has further action been recommended?		
If yes, then has action been followed up?		
Have details been entered in Register?		
Have details been entered on the spreadsheet (IT System when available)		
Have all documents been filed in person's DOL file?		
Has BIA been notified of the outcome?		
Has MA been informed verbally of the outcome?		

For use by DOLS Admin Team below this line:

NOTES:

CHECKLIST FOR SUPERVISORY BODY – Unauthorised DOL

Name of relevant person:

Name of Managing Authority:

Name of person who has alerted SB to possible DOL:

Date received by Supervisory Body:

(Initials in these columns rather than a tick)

UNAUTHORISED DOL	YES	NO
DOLS Administrator		
Has a letter been received by Senior Commissioners/Manager(s) from a party other than the Managing Authority suggesting there is an unauthorised DOL.		
If so, complete Form 16.		
Has the Form 16 been signed?		
Has the Form 16 been dated?		
Has each box been completed as appropriate?		
If answer is 'no' to any question, revisit the form and complete.		
If answer is 'yes' to each question, then progress.		
Has there been any previous application?		
If yes, then has circumstances changed since last application?		
If no, then contact Senior Commissioner/Manager for advice on way forward.		
If yes, then proceed with assessment arrangements.		
Have copies of Form 16 been sent out as outlined in Para. 13.3 of procedure?		
Has BIA been contacted to carry out an assessment?		
Has the BIA completed a Form 17?		
Have forms been distributed as outlined in Para. 13.6 of procedure?		
Collate all documents and retain all originals in file		
Have details been entered in Register?		
Have details been entered on the spreadsheet (IT System when available)?		
Have forms been sent to SB Authorisation Panel?		
SB Authorisation Panel		
Has decision been made and Form 18 been completed?		
Has form 18 been signed?		
Has Form 18 been dated?		
Has Form 18 been forwarded to DOLS Administrator confirming whether authorisation would be appropriate?		
DOLS Administrator		
If, decision is an unauthorised DOL in place, has DOLS Administrator commenced Authorisation process?		
Has Form 18 been distributed as outlined in Para. 13.10 of procedure?		

Has MA been informed verbally?		
Have details been entered in Register?		
Have details been entered on the spreadsheet? (IT System when available)		
NB Now follow checklist for appropriate authorisation.		

For use by DOLS Admin Team below this line

NOTES:

CHECKLIST FOR SUPERVISORY BODY – SUSPENDING AN AUTHORISATION

Name of relevant person:

Name of Managing Authority:

Name of person reporting suspension:

Date of Mental Health Act detention or date of new conditions to an existing MHA Section eg., Community Treatment Order or Guardianship:

(Reasons might be where the DOLS specify residence at a particular hospital/care home and the CTO or Guardianship specifies residence at a different hospital/care home).

(Initials in these columns rather than a tick)

CHECKLIST - SUSPENDING AN AUTHORISATION	YES	NO
Has Form 14 been received?		
Has Form 14 been signed?		
Has Form 14 been dated?		
Good Practice: Has a copy of Form 14 been sent to Supervisory Authorisation Panel for information?		
Have details been entered in the Register?		
Have details been entered on the spreadsheet? (IT System when available)		
Has Form 14 been filed in relevant person's DOL file?		
Has MA been informed verbally?		

Below this line: for use by DOLS Admin Team only

NOTES:

CHECKLIST FOR SUPERVISORY BODY – NOTICE THAT SUSPENSION HAS BEEN LIFTED

Name of Managing Authority:

Name of person making application:

Date of Mental Health Act detention or date of new conditions to an existing MHA Section eg., Community Treatment Order or Guardianship:
(Reasons might be where the DOLS specify residence at a particular hospital/care home and the CTO or Guardianship specifies residence at a different hospital/care home).

Date suspension lifted:

(NB: suspension can only be lifted within 28 calendar days, inclusive of the original Mental Health Act detention/conditions).

(Initials in these columns rather than a tick)

NOTICE THAT SUSPENSION HAS BEEN LIFTED	YES	NO
Is the person still subject to detention under the Mental Health Act or conflicting conditions attached to CTO or Guardianship etc.		
Is it less than 28 days from the original suspension of DOL authorisation?		
If 'yes, then progress as follows:		
Has Form 15 been completed?		
Has Form 15 been signed?		
Has Form 15 been dated?		
Has Form 15 been sent to relevant person?		
Has Form 15 been sent to person's representative?		
Has Form 15 been sent to any IMCA instructed under 39D MCA?		
Good Practice: Has copy of Form 15 been sent to Supervisory Body Authorisation Panel for information?		
Has original Form 15 been filed in relevant person's DOL file?		
Have details been entered in the Register?		
Have details been entered onto the spreadsheet? (IT system when available)		
If DOLS Admin Team have identified that 28 days have elapsed since the original suspension, the progress as follows:		
Has Supervisory Body Authorisation Panel been advised?		
Has Supervisory Body Authorisation Panel completed Form 23?		
Has Form 23 been signed?		
Has Form 23 been dated?		
Has a copy Form 23 been sent to the Managing Authority?		
Has a copy Form 23 been sent to the Relevant Person?		
Has a copy Form 23 been sent to the Relevant Person's Representative?		
Has a copy Form 23 been sent to every person named and consulted by the BIA?		

Have details been entered in Register?		
Have details been entered onto the spreadsheet? (IT System when available)		
Has Form 23 been placed in the person's DOLS file?		
Has MA been informed verbally?		

Below this line: for use by DOLS Admin Team only

NOTES:

CHECKLIST FOR SUPERVISORY BODY – NOTICE THAT A PART 8 REVIEW IS TO BE CARRIED OUT

Name of relevant person:

Name of Managing Authority:

Name of person making application:

Date application made by Managing Authority:

Date received by Supervisory Body:

(Initials in these columns rather than a tick)

CHECKLIST - NOTICE THAT A PART 8 REVIEW IS TO BE CARRIED OUT	YES	NO
Has a Form 19 been received?		
Has Form 19 been signed?		
Has Form 19 been dated?		
Has Authorisation Panel been informed and completed Form 20?		
Has Form 20 been signed?		
Has Form 20 been dated?		
Has a copy of Form 20 been sent to relevant person?		
Has a copy of Form 20 been sent to person's representative?		
Has a copy of Form 20 been sent to the Managing Authority?		
Have details been entered in Register?		
Have details been entered on to Spreadsheet? (IT System when available)		
Has Authorisation Panel completed Form 21?		
Has Form 21 been signed?		
Has Form 21 been dated?		
Has appropriate Assessor been appointed and given copy of Form 21?		
(Assessor will complete Form 5-10 as appropriate)		
When received, has the form(s) been completed, signed and dated?		
Has form(s) been sent to SB Authorisation Panel?		
Has Form 22 been completed by SB Authorisation Panel?		
Has Form 22 been signed?		
Has Form 22 been dated?		
Has a copy of Form 22 (and copy of Part 8 review assessment forms) been sent to the Managing Authority?		
Has the MA been informed verbally?		
Has a copy of Form 22 (and copy of Part 8 review assessment forms) been sent to the Relevant Person?		
Has a copy of Form 22 (and copy of Part 8 review assessment forms) been sent to the Relevant Person's Representative?		

Has a copy of Form 22 (and copy of Part 8 review assessment forms) been sent to the any Sec 39D IMCA appointed?		
Have details been entered in Register?		
Have details been entered on Spreadsheet? (IT System when available)		
Has Form 32 been updated?		
Has original Form 22 and 32 been filed in person's DOL file?		
<i>If authorisation is to cease:-</i>		
Has Supervisory Body Authorisation Panel completed Form 23?		
Has Form 23 been signed?		
Has Form 23 been dated?		
Has MA been informed orally?		
Has scrutiny arrangements been made via MHA DOL Lead?		
Has a copy of Form 23 been sent to the Managing Authority?		
Has a copy of Form 23 been sent to the Relevant Person?		
Has a copy of Form 23 been sent to the Relevant Person's Representative?		
Has a copy of Form 23 been sent to every person named and consulted by the BIA?		
Have details been entered in Register?		
Have details been entered on spreadsheet ? (IT System when available)		
Has original Form 23 been filed in person's DOL file?		
In the event of a death of a patient under DOLS, have you checked that the MA has notified the appropriate Coroner?		
<i>If authorisation is to continue:-</i>		
Enter bring forward details in diary to remind MA of expiry date.		

Below this line: for use by DOLS Admin Team only

NOTES:

CHECKLIST FOR **SUPERVISORY BODY****SELECTION, APPOINTMENT AND TERMINATION OF A RELEVANT PERSON'S REPRESENTATIVE**

Name of relevant person:

Name of Managing Authority:

Date of reason for selection, appointment or termination:
(i.e. standard authorisation application, Part 8 review or other reason)

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(Initials in these columns
rather than a tick)

CHECKLIST - SELECTION, APPOINTMENT AND TERMINATION OF A RELEVANT PERSON'S REPRESENTATIVE	YES	NO
<i>SELECTION:</i>		
Has Form 24 been completed by BIA?		
Has the person signed Form 24 to confirm willingness to be relevant person's representative?		
Has Form 24 been sent to SB Authorisation Panel?		
Has Form 24 been completed?		
Has Form 24 been signed?		
Has Form 24 been dated?		
Have details been entered in Register?		
Have details been entered on spreadsheet? (IT System when available)		
Has Form 24 been filed in person's DOL File?		
<i>APPOINTMENT:</i>		
Has Form 25 been completed by the SB Authorisation Panel?		
Has Form 25 been signed?		
Has Form 25 been dated?		
Has Form 25 been sent to the person appointed?		
Has Form 25 been sent to the relevant person?		
Has Form 25 been sent to the Managing Authority?		
Has Form 25 been sent to any LPA or Deputy?		
Has Form 25 been sent to any IMCA appointed?		
Has Form 25 been sent to every interested person named and consulted by the BIA?		
Have details been entered in Register?		
Have details been entered on spreadsheet? (IT System when available)		
Has Form 25 been filed in person's DOL file?		

DOLS ADMIN TEAM		
<i>PENDING TERMINATION PROCESS</i>		
From bring forward system, identify 21 days prior to expiry that SB Authorisation Panel need to complete Form 26.		
Has Form 26 been completed?		
Has Form 26 been signed?		
Has Form 26 been dated?		
Has a copy of Form 26 been sent to RPR?		
Have details been entered in register?		
Have details been entered on spreadsheet? (IT System when available)		
Has Form 26 been filed in person's DOL file?		
<i>TERMINATION PROCESS:</i>		
Has Form 27 been completed by SB Authorisation Panel?		
Has Form 27 been signed?		
Has Form 27 been dated?		
Has arrangements for scrutiny been arranged via MCA DOL Lead?		
Has a copy of Form 27 been sent to the relevant person?		
Has a copy of Form 27 been sent to the Managing Authority?		
Has a copy of Form 27 been sent to the LPA or Deputy?		
Has a copy of Form 27 been sent to any IMCA appointed?		
Has a copy of Form 27 been sent to every person named and consulted by the BIA?		
Have details been entered in register?		
Have details been entered on spreadsheet? (IT System when available)		
Has Form 27 been filed in person's DOL file?		

Below this line: for use by DOLS Admin Team only

NOTES: