

## Deprivation of Liberty Safeguards (DOLS)

The Deprivation of Liberty Safeguards are part of the Mental Capacity Act (2005). They aim to protect people in care homes and hospitals from being inappropriately deprived of their liberty. The safeguards have been put in place to make sure that a care home or hospital only restricts someone's liberty safely and correctly, and that this is done when there is no other way to take care of that person safely. The people it relates to may have severe learning disabilities, dementia or a neurological condition such as brain injury and they need extra protection to keep them from coming to harm.

Depriving someone of their liberty is a very serious matter. The Mental Capacity Act Deprivation of Liberty Safeguards says that it should be avoided if possible and kept to as short a time as can be. The Act also says that it is only allowed when it is in the person's best interests and is the only way to keep them safe.

Following a Supreme Court judgement delivered in March 2014, what constitutes a deprivation of liberty was clarified in an "acid test". A person is considered to be deprived of their liberty, for the purposes Article 5 of the European Convention on Human Rights if they;

- Lack capacity to consent to their care/treatment arrangements
- Are under continuous supervision and control
- Are not free to leave

All three elements must be present for the acid test to be met. Detailed guidance on what is meant by 'continuous supervision and control' and 'not free to leave', can be found in the Law Society's "Deprivation of Liberty: A Practical Guide" via the [Law Society's](#) website.

The Supreme Court ruling also clarified the factors which are NOT relevant to determining whether a person is deprived of their liberty, which are;

- The person's compliance or lack of objection to the proposed care/treatment
- The reason or purpose behind a particular placement
- The relative normality of the placement given the person's needs.

## Challenging unlawful deprivation of liberty

If you believe that a friend or family member is being deprived of their liberty without the appropriate authorisation in place you must inform the hospital or care home immediately.

If the hospital or care home does not take appropriate action you can write to the Supervisory Body. For most people in hospital or a care home in Hertfordshire this will be:

Hertfordshire Supervisory Body  
Hertfordshire County Council  
SFAR016  
Farnham House  
Six Hills Way  
Stevenage  
Herts  
SG1 2FQ

Tel: 01438 843800

Fax: 01438 844312

Email: [dolsteam@hertfordshire.gov.uk](mailto:dolsteam@hertfordshire.gov.uk)

You can find standard letters to use and further information in the [Department of Health](#) leaflet 'Deprivation of Liberty Safeguards: A guide for family, friends and unpaid carers'.