



mental health law **deprivation of liberty safeguards** **An Overview for Staff, Service Users and Carers**

The Mental Health Act 2007 amended the Mental Health Act 1983 and introduced the Deprivation of Liberty Safeguards into the Mental Capacity Act 2005. It is planned that the safeguards will be effective from 01 April 2009.

Who will DOLS affect?

Patients in hospital and care homes. The criteria for DOLS is

- The patient must be over 18
- They must suffer from a disorder or disability of mind and:
- Lack capacity to give consent to the arrangements made for their care or treatment and:
- Their care amounts to a deprivation of liberty within the meaning of Article 5 of the European Convention on Human Rights and is considered to be a necessary and proportionate response in their best interests to protect them from harm

What is a Deprivation of Liberty?

This is not defined so has to be measured on individual cases. It is ultimately a question of law and has previously been decided in a number of court cases. A deprivation may be perceived as someone exerting complete control over another person so preventing them from leaving a place they are trying to leave, refusing them access to other people or constant supervision and control of a person may all be an indication that a person needs an assessment under DOLS.

Who's Who?

Supervisory Body

A primary care trust or local authority responsible for considering a deprivation of liberty request received from a managing authority, commissioning statutory assessments and, where all the assessments agree, authorising deprivation of liberty

Managing Authority

The person or body with management responsibility for the hospital or care home in which a person is, or may become, deprived of their liberty i.e. Pennine Care NHS Foundation Trust.

Independent Mental Capacity Advocates

An IMCA provides support and representation for a person who lacks capacity to make specific decisions. The IMCA service was established by the Mental Capacity Act 2005 and is not the same as an ordinary advocacy service. Under DOLS an IMCA may be instructed to support either the person or their representative and they should help them to understand the authorisation and how to appeal against it.

Implementation Team

Pennine Care established an implementation team to ensure the MHA 07 was implemented across the Trust. This team will continue to work on the implementation of DOLS within our hospital sites. Local Authorities and Primary Care Trusts will also be carrying out implementation work looking at patients in both care homes and hospitals.

DOLS will require a work across a number of areas including training, policies and service provision. We will be keeping you up to date through newsletters, corporate briefs, local notice boards or individual letters.

If you have questions relating to DOLS you may contact the implementation team on: 0161 604 3396 or email MHA07implementation@penninecare.nhs.uk

We will also be developing the Mental Health Law area of our website www.penninecare.nhs.uk.