

Deprivation of Liberty Safeguards (DoLS) Procedures for Managing Authorities

Local Supervisory Body: Coventry City Council

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Staff must always consult the most up to date PDF version which published on Councils Adult Social Care Webpages. To be read in conjunction with the Deprivation of Liberty Safeguards Code of Practice. These procedures are written to support the Code of Practice and to provide some local interpretation and guidance.

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1. Introduction

- 1.1 This document outlines the Local Authority's approach to implementation of the Mental Capacity Act (2005) as amended 2007 Schedule A1 Deprivation of Liberty Safeguards.
- 1.2 The Deprivation of Liberty Safeguards apply to:
- A relevant person in a hospital, care home, supported living environment, shared lives, own home who is over the age of 18 years and whose residence and or package of care is imputable to the state **and**
 - who lacks capacity to consent to the arrangements for their care **and**
 - for whom deprivation of liberty is a proportionate and necessary step to take in their best interests to keep them safe.

2. Procedure Principles

- 2.1 The procedure is designed to enable health and social care staff to identify their responsibilities and their responses in relation to a person who is being or may be about to be deprived of their liberty under the provisions of the Mental Capacity Act 2005 and Deprivation of Liberty Safeguards 2007.

3. Definitions

- 3.1 **Managing Authority:** A manager of a home registered under Part 2 of the Care Standards Act 2000, or an NHS hospital establishment.
- 3.2 **Supervisory Body:** The body responsible for undertaking assessments related to the Deprivation of Liberty Safeguards. In the case of a Care Home where a local authority has made arrangements to provide a person with accommodation in a care home, the person's ordinary residence is deemed to continue in the place where there were ordinarily resident immediately before they went into the home.

3.2b In the case of a hospital the table below applies:

A patient lacking capacity to consent to arrangements for treatment is admitted in circumstances believed to amount to a deprivation of liberty		Supervisory body
1	Patient is admitted to a hospital in Wales and treatment is commissioned by the National Assembly for Wales or a Local Health Board	The National Assembly for Wales is the supervisory body
2	Patient is admitted to a hospital in England and the treatment is commissioned by National Assembly for Wales or a Local Health Board	The National Assembly for Wales is the supervisory body
3	Patient is admitted to a hospital in Wales and has ordinary residence in the area of an English local authority	The English local authority for ordinary residence is the supervisory body

4	Patient is admitted to hospital situated in the same English local authority area where they live in their own home or with their family	The local authority is the supervisory body
5	Patient is admitted to a hospital situated in a different English local authority to the one that they live in, in their own home or with their family (that is, the one they have ordinary residence in)	The local authority for ordinary residence is the supervisory body
6	Patient is admitted to a hospital situated in the same local authority that made arrangements to provide them with accommodation in a care home (see the 'deeming' rule above)	The local authority is the supervisory body
7	Patient is admitted to a hospital in the area of one local authority while a second local authority has made arrangements to provide them with accommodation in a care home (see the 'deeming' rule above)	The second local authority is the supervisory body

- 3.3 **The Local Authority DOLS Team:** receive DoLS authorisation requests and both commission and carry out the assessments. They are the Coventry Deprivation of Liberty Safeguards Team based with Coventry City Council.
- 3.4 **Court of Protection:** consider applications for Deprivation of Liberty Safeguards not in Care Homes or Hospitals (known as Community Deprivation of Liberty)
- 3.5 **Relevant Person:** The person who is or may be the subject of the Deprivation of Liberty regime and may be a patient in a hospital or a resident in a care home or resident in supported living, shared lives or their own home.
- 3.6 **Relevant Person's Representative:** A person who is appointed to support and maintain contact with the relevant person. The representative is independent of the Managing Authority and Supervisory Body.
- 3.7 **Best Interests Assessor:** A suitably trained professional appointed by the Supervisory Body to consider whether deprivation of liberty would be in the relevant person's best interests.
- 3.8 **Mental Health Assessor:** A suitably medically trained professional appointed by the Supervisory Body to consider whether the relevant person is suffering from any disorder or disability of mind which may impair the person's ability to make a decision.
- 3.9 **The six qualifying requirements:** 1) Over age of 18 years 2) lacks capacity 3) has a mental disorder as defined in the Mental Health Act 4) is not ineligible by virtue of Schedule 1A Mental Capacity Act 5) No refusals 6) in the person's best interests.
- 3.10 **Ineligibility:** Schedule 1A of the Mental Capacity Act sets out the circumstances where the relevant person is ineligible for detention in a hospital under the MCA Deprivation of Liberty Safeguards. The effect of Schedule 1A is that where a person is within the scope of the Mental Health Act and objects to admission or treatment wholly or partly for a mental disorder, the person will be ineligible for the DOL Safeguards.
- 3.11 **Deprivation of Liberty** Article 5 of the European Convention on Human Rights states:

5 (1) *Everyone has the right to liberty & security of person. No one shall be deprived of his liberty save in the following cases [e – persons of unsound mind] and in accordance with a procedure prescribed by law.*

5(4) *Everyone who is deprived of their liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful.*

European Convention law recognises that there are two elements to start with when identifying what deprivation of liberty is:

Firstly, an **objective element**: The person is confined to a certain, limited place for a not negligible length of time.

Secondly, a **subjective element**: the person has not validly consented to the confinement in question. A person who lacks capacity to consent cannot validly consent. Consent in this context means that the person makes a capable and affirmative choice. An incapable choice, or the failure of an incapable person to object, is not sufficient.

The next step is to look at the actual situation of the individual in the setting, and take account of the type, duration, effects and manner of implementation of the measures in question.

In essence the test for whether there is deprivation of liberty is whether the person is under continuous supervision and control AND is not free to leave.¹

WHAT DO CONTINUOUS SUPERVISION AND CONTROL AND NOT FREE TO LEAVE MEAN?

It is not possible to say with certainty what “continuous supervision and control” and “not free to leave” means. Every case needs to be considered individually and in the round. But the following examples may help staff think about whether their service users/residents are deprived of their liberty.

Continuous supervision and control

Service users/residents are very likely to be considered under continuous supervision and control if, for example, any of the following applies:

- ❖ they need constant or frequent supervision to stop them harming themselves (either deliberately or by accident);
- ❖ they would not be left on their own for more than a short period, even if they asked to be;
- ❖ they are so disabled that carers are effectively deciding all or many aspects of their daily life (e.g. when to get up and go to bed, where to sit, when to watch TV, when to eat, when and where to go out); or
- ❖ they need support with all or many everyday tasks (e.g. cooking, shopping, bathing) and would be stopped from trying to do them if no carer was available to help or supervise them at the time; or
- ❖ their care plan or carers impose severe restrictions on their contact with their family.

In addition, the more likely they are to be subject to any form of control or restriction (e.g. restraint, medication to control behaviour, restrictions on contact with other people, limitations on how much privacy they get), the more likely it is that the supervision and control element of their care would be considered “continuous”.

“Continuous” does not have to mean literally every minute of the day – it reflects the overall effect on a person’s life. It is less likely that they would be considered under continuous supervision and control if, for example:

- ❖ there are only a few particularly risky things (e.g. cooking) which they would be stopped from doing on their own if no carer was available to help or supervise them at the time;
- ❖ carers check in on them from time to time to make sure they are all right, but they are otherwise largely free to get on with their daily lives without supervision; or
- ❖ they sometimes need to be supervised or restrained to stop them coming to harm,

Not free to leave

Service users/residents are very likely to be considered not free to leave if, for example, any of the following applies:

- ❖ they would not be allowed to go back to live in their family home, even though the family was happy to have them;
- ❖ they would not be allowed to go back to live in their old home, even if it were still available for them;
- ❖ all or much of the time they have to ask carers’ permission before going out;
- ❖ all or much of the time they are only allowed out with an escort, and would be stopped if they tried to go out alone; or
- ❖ they don’t show any interest in going out, but would probably be stopped if they did, either always or much of the time.

It is less likely that they would be considered not free to leave if, for example:

- ❖ they can’t go out without help, but help is always, or almost always, available to take them wherever they want to go;
- ❖ they can’t go out without help, but would always, or almost always, be allowed to go out whenever they wanted if they arranged for someone else (e.g. a friend or family member) to help them;
- ❖ they are normally free to come and go as they want, but are occasionally stopped from going out (or going out alone); or
- ❖ they are free to come and go as they want, except for limited times of day, or certain particular places.

The following factors will also be taken into account when considering if the person is under continuous supervision and control:

- Restraint is used, including sedation, to admit a person to an institution where that person is resisting admission.
- A request by carers for a person to be discharged to their care is refused
- The person is unable to maintain social contacts because of restrictions placed on their access to other people

3.12 The following steps should be followed by staff when providing care:

- Follow established good practice for care/support planning.
- Make a proper assessment of whether the person lacks capacity to accept or refuse the proposed treatment.
- Consider whether the person needs could be met in a less restrictive way. Any restrictions placed on a person must be kept to the minimum necessary and for the shortest possible period. Why are they necessary? What aim do they seek to meet? Are they proportionate?
- Take proper steps to help the individual to maintain contact with family, friends and their community.
- What are the views of the relevant person, their family or carers? Do any of them object to the measures? Note that even if they do not object they could still be being deprived of their liberty
- Review the care/support plan on an on-going basis and reduce levels of restrictions as soon as practical.
- Are there any less restrictive options for delivering care or treatment to avoid deprivation of liberty altogether?
- Make sure that all decision are taken and reviewed in a structured way and reasons for decisions are recorded.
- All practical and reasonable steps should be taken to avoid a deprivation of liberty, but where deprivation of liberty is occurring, that is not itself a statement on the standards of care. Deprivation of Liberty is a “legal state” of affairs and can happen in environments of the highest standard.

4. Duties

- 4.1 The primary responsibility for ensuring this policy is adhered to rests with those staff who are making decisions relating to a person who lacks capacity to consent to the arrangements for their care.
- 4.2 Secondary responsibility lies with managers of services to ensure that all relevant staff members are aware of the requirements of this policy and the implications of it for their practice.

5. Implementation

- 5.1 Staff must establish whether the person lacks capacity to consent to the arrangements proposed for their care or treatment.

- 5.2 Staff must determine whether any restrictions or restraint will be required in order to provide the care or treatment. Any restrictions or restraint must be proportionate and necessary to prevent harm to the individual.
- 5.3 Staff must be aware of Schedule 1A of the Mental Capacity Act which sets out the circumstances where the relevant person is ineligible for detention in a hospital under the Mental Capacity Act Deprivation of Liberty Safeguards. As part of the DoLS assessment process the eligibility assessor must consider whether the person is within the scope of the Mental Health Act AND objecting (or who would object if able to do so) to care in a hospital wholly or partly for the purposes of treatment for a mental disorder. If so, they will be ineligible for detention under the Deprivation of Liberty Safeguards and a Mental Health Act assessment will have to be undertaken.
- 5.4 Unless the person is objecting to care in a hospital wholly or partly for the purposes of treatment for mental disorder it is not inevitable that the Mental Health Act must be used. It may be possible to use the MCA Deprivation of Liberty Safeguards. Case law indicates that the following questions are relevant ²
- Might the NHS Trust be able to rely on the provisions of the MCA to lawfully assess and treat the patient who lacks capacity to consent to admission?
 - Is the patient compliant? Clinicians will need to assess the degree of compliance and the risks of non-compliance. If the patient is not compliant, assess under the Mental Health Act for detention under Mental Health Act (as Schedule 1A MCA Case E applies).
 - Where the patient is compliant, how should the existence of a choice between reliance on the MHA and the MCA and DOLS be taken into account?
 - The AM v SLAM case² is authority for the proposition that it is generally but not always more appropriate to rely on DOLS in circumstances where the patient who lacks capacity is deprived of liberty and is not objecting. However this needs to be judged in light of the Cheshire West Judgment.¹
 - There may be cases where the MHA for the compliant patient who lacks capacity is more appropriate e.g. capacity fluctuates and the person may regain capacity and object.
- 5.5 If after thorough assessment and taking into account all of the above it is felt that the MCA Deprivation of Liberty Safeguards procedures are appropriate in any given case, it will be necessary to apply for authorisation under those procedures.
- 5.6 **The Mental Capacity Act Deprivation of Liberty Safeguards Procedures for Care Homes and Hospitals.**
- All forms currently used by Coventry City Council are West Midlands ADASS Forms dated 2023
- 5.6.1 **Standard request, urgent authorisation and extension to urgent: Form 1**

Authorisation should normally be obtained in advance. However, if there is already a deprivation of liberty occurring or there is an urgent need for deprivation of liberty to begin immediately (and use of the Mental Health Act is inappropriate) – a combined urgent and standard request on Deprivation of Liberty Form 1 for authorisation to detain for a period of up to 7 days must be completed. *The staff member completing the form must have a reasonable expectation that all of the six qualifying requirements for a standard authorisation will be met.*

- 5.6.2 [Deprivation of Liberty Form No 1](#) must be completed **and** submitted by e-mail to the relevant Local Authority Deprivation of Liberty Team

The Coventry DOLS Administrator can be contacted as follows:

Deprivation of Liberty Safeguards (DOLS)

Address:

PO Box 15 Council House

Earl Street

Coventry

CV1 5RR

Telephone:[024 7697 8910](tel:02476978910)

Email:dolsadmin@coventry.gov.uk

Applications must be emailed to the Administrator. The Administrator will confirm the application is in order and forward to the allocated Best Interest Assessor along with all the required assessment forms.

DOLS Forms can be filled in on the computer, saved and copies printed out. Forms are available at:

http://www.coventry.gov.uk/info/151/mental_health/2272/deprivation_of_liberty_safeguards_dols/4

- 5.6.3 The relevant person should be informed by the Managing Authority that they are subject to an urgent authorisation and that in addition a standard authorisation has been requested.
- 5.6.4 Consultation with anyone engaged in caring for the relevant person must take place and records should show that steps have been taken to consult with them. Any Independent Mental Capacity Advocate who is commissioned by the Supervisory Body at this stage must be provided with a copy of Form 1.
- 5.6.5 The relevant person's family, friends and carers should be informed by the Managing Authority that the person is subject to an urgent authorisation.
- 5.6.6 A copy of the combined Form 1 must be placed in the person's care records.
- 5.6.7 Once the Deprivation of Liberty Safeguards authorisation has been received by the Managing Authority they are required to inform the Care Quality Commission (CQC) using their standard notification form. <http://www.cqc.org.uk/guidance-providers/notifications/application-deprive-person-their-liberty-dols-notification-form>

5.7 **Extension of Authorisation**

The relevant Local Authority Deprivation of Liberty Safeguards Team may have completed all assessments and given a decision within the period of the urgent authorisation. If the

assessment process has not been completed within this time an extension must be requested by the Managing Authority. This can be done in advance by completing the final section of the standard and urgent request form 1 before submitting the complete form 1 to the Local Authority DOLS Team.

5.8 Applications made in advance

- 5.8.1 There will be times when an admission to a hospital or care home is known in advance and it is also known that the person is likely to be deprived of their liberty on admission. In these cases a request for a standard authorisation can be made up to 28 days in advance of the admission date so that an authorisation can be in place as soon as the person arrives.
- 5.8.2 The managing authority should in these cases complete the standard authorisation section of the combined form 1 only.
- 5.8.3 Upon completion of the standard authorisation request section of the form, the managing authority should identify the person's relevant Supervisory Body and submit the form by e-mail to the relevant Local Authority DOLS Team.

Dols Forms

- 5.8.4 The relevant person should be informed by the Managing Authority that a standard authorisation has been requested. Consultation with anyone engaged in caring for the relevant person must take place and records should show that steps have been taken to consult with them.
- 5.8.5 The relevant person's family, friends and carers should be informed by the Managing Authority that a standard authorisation has been requested. If there are no family or friends appropriate to consult, the Supervisory Body must be made aware (in combined form 1) so that they can instruct an [Independent Mental Capacity Advocate](#)
- 5.8.6 A copy of combined Form 1 must be placed in the person's care records.
- 5.8.7 Once the Deprivation of Liberty Safeguards authorisation has been received by the Managing Authority they are required to inform the Care Quality Commission (CQC) using their standard notification form. <http://www.cqc.org.uk/guidance-providers/notifications/application-deprive-person-their-liberty-dols-notification-form>

5.9 During the assessment process

Managing Authorities should work with the Best Interest Assessor, Mental Health Assessor and any Independent Mental Capacity Advocate who has been appointed by the Supervisory Body. Assessors must be provided with any relevant information, assessments and care plans. Access to and copies of the relevant person's notes should be facilitated.

5.10 If authorisation is granted

- 5.10.1 If the Supervisory Body grants authorisation it will do so using **a Form 5**. The relevant person and their appointed representative must be informed that the authorisation has been granted and the Managing Authority should take all practical and possible steps to ensure that they understand the effects of this and their rights. Information must be given both verbally and in writing.

5.10.2 All relevant staff must be made aware that a standard authorisation has been granted and be informed of any conditions that may be attached to the authorisation including duration. A copy of the authorisation should be placed in the relevant person's notes.

5.10.3 It is vitally important to ensure that any conditions that are imposed by the Supervisory Body are adhered to. Steps should be taken to monitor compliance with the conditions and evidence that they have been put in place.

5.11 **If authorisation is NOT granted**

5.11.1 If the Supervisory Body **refuses** authorisation they will do so using **Form 6**.

5.11.2 Depending on the reason for not granting the request, the authoriser may:

- Contact the relevant case manager or intake team in order to request a review of the care or treatment currently in place and agree alternatives to reduce the level of any restrictions and restraint. **Any deprivation of liberty that is not authorised will be unlawful.**
- Liaise with the Best Interests Assessor/DoLS administrator to ensure that a Safeguarding Adults referral has been made if safeguarding concerns had been raised.

5.12 **Requests from third parties**

5.12.1 Sometimes an interested third party may contact the Supervisory Body because they believe that someone is being deprived of their liberty on the Managing Authorities premises. The Supervisory Body will then contact the Managing Authority for a response.

5.12.2 The Managing Authority should respond to this request. This would normally involve discussion and an attempt to resolve the issue informally.

5.12.3 If it is not possible to resolve the issue informally, by changing the care regime, the Managing Authority must apply for authorisation. This would normally mean the use of Form 1 to apply for an urgent and standard authorisation.

The Supervisory Body will appoint a Best Interests assessor to check if there is an unauthorised deprivation of liberty. This assessment must be completed within 7 days. The 3rd party, the relevant person, any IMCA involved and the Managing Authority will be notified of a decision to undertake the assessment or a decision not to do so because it is considered that no deprivation of liberty is occurring or the request is considered as vexatious or frivolous.

5.13 **Further Authorisation Request Form 2**

5.13.1 If the relevant person is already subject to a Deprivation of Liberty Safeguards standard authorisation and:

- it is due to expire within the next 28 days and
- the relevant person still needs to be deprived of their liberty

The Managing Authority must complete [Deprivation of Liberty Form 2](#) and send it to the Supervisory Body. The Supervisory Body will then arrange for another assessment to take place. The relevant person's family, friends and carers should be informed by the Managing Authority that a standard authorisation has been requested.

5.13.2 A copy of Form 2 must be placed in the person's care records.

5.13.3 Once the Deprivation of Liberty Safeguards authorisation has been received by the Managing Authority they are required to inform the Care Quality Commission (CQC) using their standard notification form. <http://www.cqc.org.uk/guidance-providers/notifications/application-deprive-person-their-liberty-dols-notification-form>

5.14 **Suspension of Authorisation Form 7**

Where the relevant person is under a Deprivation of Liberty Authorisation but his/her condition now means that he/she needs to be detained under the Mental Health Act 1983, or that accommodating the person in the care home or hospital now conflicts with a Guardianship or Community Treatment Order the Managing Authority must notify the Supervisory Body.

The Supervisory Body will suspend the authorisation. The Managing Authority will use [**Deprivation of Liberty Form 7**](#). A copy of Form 7 must be sent to the Supervisory Body and given to the relevant person and their representative, and placed in the person's care records

5.15 **Lifting of Suspension of Authorisation: Form 7**

5.15.1 If the relevant person becomes eligible for the safeguards again **within the next 28 days**, the Managing Authority must use the final section of [**Deprivation of Liberty Form 7**](#) to inform the relevant Supervisory Body. The Supervisory Body will remove the suspension. If no such notice is given by the Managing Authority to the relevant Supervisory Body **within 28 days**, the original standard Deprivation of Liberty Safeguards authorisation will be terminated. The Supervisory Body will inform the Managing Authority and relevant interested parties.

5.15.2 A copy of Form 7 must be given to the relevant person and their representative by the Managing Authority and placed in the person's care records.

5.16 **Standard Authorisation has Ceased Form 9**

5.16.1 The Managing Authority must complete a [**Form 9**](#) and send it to the supervisory body when a person on a deprivation of liberty authorisation moves from one facility to another. This is because the original authorisation concerns deprivation of liberty at that particular facility even though the person will continue to receive care and support at the new facility

5.16.2 If it is known that deprivation of liberty is likely to continue at the site of transfer, the receiving Managing Authority must complete a [**Form 1**](#) and apply for authorisation (unless it is evident that the person would be ineligible for the DOL Safeguards under schedule 1A).

5.16.3 [**A Form 9**](#) must be completed where the patient is discharged.

5.16.4 [**A Form 9**](#) must be completed when the patient dies.

5.16.5 A copy of [**Form 9**](#) must be e-mailed to the relevant Local Authority Deprivation of Liberty Safeguards Team and a copy placed in the person's care records.

5.17 **Request for Review: Form 10**

5.17.1 A review will be necessary to assess whether the relevant person still meets the requirements for being deprived of their liberty or whether the reasons they do have changed and whether any conditions attached to the standard authorisation have changed.

5.17.2 The Managing Authority must request a review if one or more of the requirements is no longer met or may not be met.

5.17.3 The relevant person may request a review as may the relevant person's representative.

5.17.4 If the Managing Authority feels that deprivation of the person's liberty is no longer necessary the regime can be ended immediately and an application to formally terminate the authorisation will be necessary.

5.17.5 If the Managing Authority wishes to request a review [Deprivation of Liberty Form 10](#) must be used. The Supervisory Body will then arrange for an assessment to take place.

5.18 Relevant Person's Representative

5.18.1 Once authorisation has been given by the Supervisory Body, they will appoint a relevant person's representative. Notification of appointment will be sent to the Managing Authority. An information leaflet will be given to the appointed representative.

5.18.2 The Managing Authority who are working with the relevant person must accommodate visits by the relevant person's representative at all reasonable times. If there are any concerns about the frequency of contact by the Representative, it is best to resolve those concerns informally.

5.18.3 If those concerns cannot be resolved, the Managing Authority should inform the appropriate Supervisory Body accordingly. The Supervisory Body will decide what action to take.

5.19 Death of a person who is under a DOLS authorisation

5.19.1 Under the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 all service providers must [notify the Care Quality Commission](#) about changes, events and incidents affecting the service or the people who use it.

5.19.2 As from April 2017 the Chief Coroner has advised that if anyone dies for whom there is a DoLS Authorisation in place the coroner **no longer** needs to be informed, unless the death meets other Coroner criteria such as being an unnatural one. Further guidance can be found in the [Guidance note 16a April 2017](#)

Coroner for Coventry [Information about HM Coroner, including contact details](#)

5.19.3 The managing authority must e-mail a copy of [Form 9](#) to the relevant Local Authority DOLS Team in order to notify them that the death of the person will require a formal review of the DOLS authorisation. A copy should be placed in the person's care records.

6. DoLS Authorisations in settings other than Care Homes and Hospitals

Sometimes people need treatment or care from doctors, nurses or care workers. This care can be received in hospitals, care homes, supported living or in people's own homes.

This care should be delivered in a way that keeps people safe but does not unnecessarily restrict their freedom.

The Mental Capacity Act 2005 is a law about what to do when people cannot make some decisions for themselves – Deprivation of Liberty Safeguards (DoLS) are part of this law. The courts have confirmed that the legislation covers not just residents of care homes and hospitals, but also people cared for in the community. This process is called a Community Deprivation of Liberty.

7. Training

Direct care staff should have an understanding of the Mental Capacity Act and Deprivation of Liberty Safeguards and be prepared to supply CQC with the relevant proof of training.

8. Review Date

The procedure will be reviewed in 2 years or in light of organisational or legislative changes.

9. References/Source Documents

- The Ministry of Justice (2008) The Deprivation of Liberty Safeguards Code of Practice to supplement the main Mental Capacity Act Code of Practice. TSO. London.
- The Department for Constitutional Affairs (2007) Mental Capacity Act Code of Practice. TSO. London.
- AM v South London & Maudsley NHS Foundation Trust and The Secretary of State for Health [2013] UKUT 365
- P (by his litigation friend the Official Solicitor)(Appellant) v Cheshire West and Chester Council and another (Respondents), P and Q (by their litigation friend, the Official Solicitor) (Appellants) v Surrey County Council (Respondent) [2014] UKSC 19
- Department of Health, 'Code of Practice: Mental Health Act 1983' (2008)

¹ *P (by his litigation friend the Official Solicitor) (Appellant) v Cheshire West and Chester Council and another (Respondents), P and Q (by their litigation friend, the Official Solicitor) (Appellants) v Surrey County Council (Respondent) [2014] UKSC 19*²
AM v South London & Maudsley NHS Foundation Trust and The Secretary of State for Health [2013] UKUT 365

10. DoLS Referral Checklist

	Initials
Capacity assessment Taken Place	
Best Interest Decision Taken Place	
Standard and Urgent Application Form Completed	
CQC Notification Form Completed	
e-mail application to: dolsadmin@coventry.gov.uk	
All Original Application Forms to stay with persons records	
Print Name	
Signature	
Date	

11. Deprivation of Liberty Safeguards – Flowchart A – Is an authorisation needed?

The Person:

- Is over 18yrs
- Has a mental disorder (e.g. brain injury, dementia, learning disability)
- Lacks capacity to consent to residing in this place
- Is not subject to any powers of the Mental Health Act which would conflict with a DoL
- Does not have any other valid decision making authorities (advance decision, LPA, Deputy) which would conflict with a DoL

AND

- The person is not free to leave **and**
- They are subject to continuous supervision and control

AND

Examples of the measures that may be in place to restrict the person's freedom:

- Close observation and supervision
- Sedative medication
- Distraction/persuasion to control behaviour
- Refusing requests for discharge, preventing them from leaving and bringing them back if they do leave
- Equipment used to restrict freedom e.g. bedrails, tip back chairs, fixed tables, lap straps, helmets, splints, locked doors, keypads, baffle handles, pressure mats, tagging devices
- Physical intervention techniques used
- Restriction on social activities or contacts with other people
- Restrictions on movement within the place of residence

AND

The restrictions are considered to be in the person's best interests because:

- They are necessary to protect the person from harm
- They are a proportionate response to the likelihood and severity of the potential harm
- Consideration has been given to reducing or eliminating the restrictions

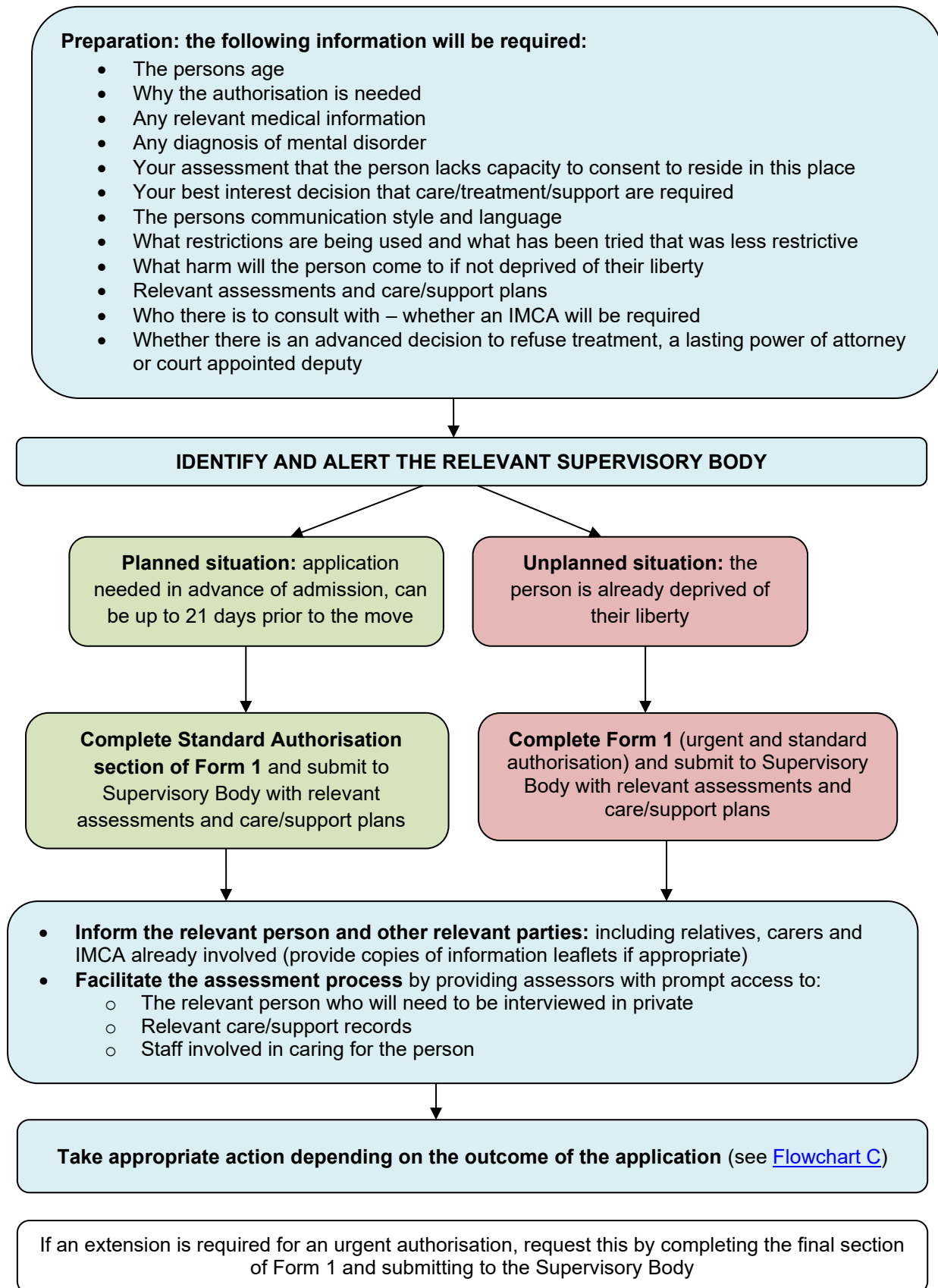
It is possible to minimise the restrictions to a level at which the person will not be deprived of their liberty?

Take immediate action to reduce the restriction, monitor and keep under review

The person does appear to be deprived of their liberty and the restrictions cannot be reduced at present

An application for DoLS **must** be made (see [Flowchart B](#))

12. Deprivation of Liberty Safeguards – Flowchart B –The application process



13. Deprivation of Liberty Safeguards – Flowchart C Managing Authority's responsibilities following an application

