The Deprivation of Liberty Safeguards
Interagency Policy and Procedures

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Executive summary

This policy and guidance is intended to assist all staff to apply the Deprivation of Liberty Safeguards to protect people who lack capacity to consent to care or treatment in circumstances that may be considered a deprivation of liberty.

This document contains:

- An overall statement of the commitment of all stakeholders to the principles and objectives of the Mental Capacity Act 2005 and Deprivation of Liberty safeguards 2007.
- General guidance as to how the Deprivation of Liberty Safeguards apply to people without capacity who may require to be deprived of their liberty in order to provide care.
- The guidance to application and assessment processes of deprivation of liberty authorisation.
- Guidance on Bristol Deprivation of Liberty Safeguards process as produced by Bristol City Council and NHS Bristol.

This policy provides a consistent and transparent framework for application for standard authorisation, assessment process and review of deprivation of liberty decisions in respect of people who lack capacity to consent to care or health treatment.
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1. **Introduction**

1.1 The Deprivation of Liberty Safeguards (DoLS) 2007 were introduced by an amendment to the Mental Capacity Act (MCA) 2005. They provide a legal framework to protect those who may lack the capacity to consent to the arrangements for their treatment or care and where levels of restriction or restraint used in delivering that care are so extensive as to be depriving the person of their liberty. The Safeguards will prevent arbitrary decisions to deprive a person of their liberty and provide a robust and transparent framework in which to challenge deprivation of liberty authorisations. The safeguards therefore protect the rights of vulnerable individuals. The safeguards apply where that person’s care is being delivered in a registered care home or hospital and has not been authorised under the Mental Health Act (MHA) 1983.

1.2 From 1 April 2009, a Managing Authority (a care home or hospital) must apply for a formal deprivation of liberty authorisation before that care home or hospital can deprive of liberty a person who lacks the capacity to consent to their care or treatment. When such application is made, the Supervisory Body (relevant Local Authority or Primary Care Trust) is responsible for conduction a number of assessments to determine whether deprivation of liberty is to be granted. Where any of the assessments is negative, the authorisation cannot be granted and any deprivation of liberty of the person becomes unlawful.


1.4 Any paper copy of this policy and guidance should be treated as ‘uncontrolled’ and it may be superseded without notice.
2. **Rationale and purpose**

2.1 This document provides a local framework for the implementation of the Deprivation of Liberty Safeguards within Bristol and aims to set out the processes and procedures that must be followed by those that have a duty of care towards a person who is, or may become deprived of their liberty. This includes both Managing Authorities and the Supervisory Bodies.

2.2 Deprivation of Liberty Safeguards 2007 and its Code of Practice provide extensive guidance and information about the Safeguards and how it works in practice. The DoLS Code of Practice should remain the main point of reference for all staff working with deprivation of liberty issues.

2.3 This document does not replace the DoLS Code of Practice or seek to repeat the content or guidance contained within it. This document is intended to clearly outline the key responsibilities and procedures related to the implementation of the legislation within Bristol. The document aims to highlight the processes involved with requesting, assessing, granting and reviewing standard authorisations for deprivation of liberty from the perspective of both the Managing Authorities applying for the authorisation, and the Supervisory Body who assess and grant or refuse the authorisation. Staff should always use this document in conjunction with the main Code of Practice.

2.4 Mental Capacity Act 2005 and its Code of Practice provide a statutory framework to empower and protect vulnerable people who may not be able to make their own decisions. The principles of the MCA 2005 apply to all decisions and actions made in relation of deprivation of liberty issues.

2.5 The policy does not replace the Mental Capacity Act 2005 and its Code of Practice or any policies on the use of restraint that are in use by Bristol City Council, NHS Bristol, independent care homes or hospitals. All organisations should refer to their own policies and procedures on restraint and use them in conjunction with this document.
3. Definitions

3.1 Advance Decision
This is a decision to refuse specified treatment made in advance by a person who has capacity to do so. The decision will then apply at a future time when that person lacks capacity to consent to, or refuse, the specified treatment.

3.2 Best Interests
Everything that is done for (or on behalf of) a person who lacks capacity must be in that person’s best interests. This should be documented in the patient’s health and social care records.

3.3 BIA (Best Interest Assessor)
This refers to the assessor responsible for conducting a range of assessments to ascertain whether an authorisation for deprivation of liberty can be granted. The BIAs are appointed by the DoLS Service.

3.4 Capacity or Mental Capacity
Mental capacity is always referred to as time and situation specific. Where the term ‘lack of capacity’ is used throughout this document it refers specifically to the capacity to decide whether or not to consent to care or treatment that involves circumstances that amount to deprivation of liberty at the time at which that decision needs to be made. A legal definition is contained in Section 2 of the Mental Capacity Act 2005.

3.5 Care Home or Registered Care Home
This includes both registered residential and nursing homes that can be managed by the county council or privately owned. The Managing Authority is the person registered under Part 2 of the Care Standards Act 2000 in respect of the care home.

3.6 Decision Maker
Anyone who is making a health and welfare decision on behalf of another person.

3.7 Deprivation of Liberty
Deprivation of Liberty is a term used in the European Convention on Human Rights about circumstances when a person’s freedom is taken away. Case law is defining its meaning in practice. There is no simple definition of deprivation of liberty. See Chapter 2 of the DoLS Code of Practice for a more detailed understanding.

3.8 DoLS Service
This is a local term used to describe the joint dedicated service created by NHS Bristol and Bristol City Council in order to fulfil their responsibilities as supervisory bodies. The DoLS service comprises of the DoLS Coordinator and DoLS Administrator. This service is a single point of contact for all DoLS related issues in Bristol. It will acknowledge the receipt, commission and
coordinate the deprivation of liberty assessment and review processes on behalf of NHS Bristol and Bristol City Council.

3.9 **Donee of Lasting Power of Attorney**
This is a person appointed under a lasting power of attorney who has the legal right to make decisions within the scope if their authority on behalf of the person (the donor) who made the lasting power of attorney.

3.10 **Hospital**
This includes both private and publicly funded hospitals. In the case of NHS hospitals the NHS Trust or authority that manages the hospital is the Managing Authority. In the case of independent hospitals the Managing Authority is the person registered under Part 2 of the Care Standards Act 2000 in respect of the hospital.

3.11 **Host Supervisory Body**
The Local Authority or Primary Care Trust in the geographic locality of the care home or hospital in which the relevant person is receiving care, but where that local Authority or Primary Care Trust is not also the Supervisory Body for that deprivation of liberty safeguards referral.

3.12 **IMCA (Independent Mental Capacity Advocate)**
This is someone who provides support and representation for a person who lacks capacity to make specific decisions, where the person has no one else to support them. An IMCA is not the same as an ordinary advocate. The IMCA service was established by the Mental Capacity Act 2005. IMCAs appointed under the DoLS are required to have additional DoLS specific training. See DoLS Code of Practice paragraphs 7.34 to 7.41 for details on the role of the DoLS IMCA.

3.13 **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.

3.14 **MHA (Mental Health Assessor)**
This is a separate assessor to the BIA, who is responsible for undertaking some of the assessments of the deprivation of liberty assessment process that relate to the mental health of the relevant person. The Mental Health Assessor must conduct the mental health assessment, but may also be responsible for the eligibility assessment and mental capacity assessment, where appropriate. The Mental Health Assessor must be a doctor who is either approved under Section 12 of the Mental Health Act 1983 or is a registered medical practitioner with at least 3 years post-registration experience in the diagnosis or treatment of mental disorder. The Mental Health Assessor must undertake specific DoLS training to be able to perform mental health assessments for the DoLS. The MHAs are appointed by the DoLS Service.
3.15 **Relevant Person**
A person who is, or may become, deprived of their liberty in a hospital or care home.

3.16 **Restraint**
The use or threat of force to help do an act, which the person resists, or the restriction of the person’s liberty of movement, whether or not they resist. Restraint may only be used where it is necessary to protect the person from harm and is proportionate to the risk of harm.

3.17 **Restrictions**
Limitations placed upon the rights a person would normally expect to exercise. They are consequences, intended or otherwise, of the actions of others, such as care home staff or managers.

3.18 **Standard Authorisation**
An authorisation given by the Supervisory Body after completion of the statutory assessment process, giving lawful authority to deprive a relevant person of their liberty in the relevant hospital or care home.

3.19 **Supervisory Body**
A Primary Care Trust, Local Authority, Welsh Ministers or a local health board that is responsible for considering a deprivation of liberty request, commissioning the assessments and, where all the assessments agree, authorising deprivation of liberty. Within Bristol, the Supervisory Bodies are Bristol City Council and NHS Bristol.

3.20 **Urgent Authorisation**
An authorisation given by a Managing Authority for a maximum of seven days, plus a further extension of maximum seven days granted by a Supervisory Body in exceptional circumstances, that gives the Managing Authority lawful authority to deprive a person of their liberty in a hospital or care home while the standard deprivation of liberty authorisation assessment process is undertaken.
4. **Scope**

4.1 The policy applies to the following organisations and groups:

- Bristol City Council
- NHS Bristol
- Hospitals
- Registered care homes
- Carers
- Service users
- Advocacy providers
- Care Quality Commission (CQC)
- General practitioners
- Voluntary sector
- Police
- Ambulance services

This list represents key stakeholders, but it is not exhaustive.

4.2 This policy applies to people in, or about to be admitted to, a care home or hospital, whether their placement has been organised and funded by a primary care trust, a local authority or through any other arrangements, including private funding.

4.3 The Deprivation of Liberty Safeguards and the processes contained within this policy document apply to all persons that meet the following criteria:

- Where they are aged 18 or more years old
- Where they are lacking the capacity to consent to arrangements for their care or treatment
- Where they are receiving care or treatment within a hospital or care home
- Where they are receiving care or treatment in circumstances that amount to a deprivation of liberty
- Where they have a mental disorder but their detention is not already authorised under the Mental Health Act

4.4 A large number of these people will be those with significant learning disabilities, or older people who have dementia or some similar disability, but they can also include those who have certain other neurological conditions (for example as a result of a brain injury).

4.5 The policy does not cover procedures for Managing Authorities to identify deprivation of liberty or any procedures prior to the submission of a request for a standard authorisation. These procedures will need to be produced internally for each care home or hospital unit. However key responsibilities of Managing Authorities in relation to the various stages of the Deprivation of Liberty safeguards process are identified in Section 7 “Procedures and Guidelines” of this document.
5. **Policy Statement and Governing Principles**

5.1 All stakeholders of this policy as defined in paragraph 4.1 are committed to the Deprivation of Liberty Safeguards. This means that, in these organisations, staff will adhere to the principles of the Mental Capacity Act 2005 and the Deprivation of Liberty Safeguards at all times and refer to the respective Codes of Practice whenever capacity, best interests and deprivation of liberty issues arise.

5.2 **MCA DoLS Governing Principles**

The following MCA 2005 principles will be adhered to by all those with a duty of care towards an individual who is, or may be deprived of their liberty:

5.2.1 Every adult has the right to make his or her own decision and must be presumed to have capacity unless is proved otherwise;

5.2.2 People should be supported as much as possible to make a decision before anyone concludes that they cannot make their own decision;

5.2.3 People have the right to make what others may regard as an unwise decision;

5.2.4 Anything done for or on behalf of a person who lacks mental capacity to make a specific decision at a particular time must be done in their best interests;

5.2.5 Anything done for, or on behalf of people without capacity should be the least restrictive of their basic rights and freedoms – the least restrictive option.

5.3 Staff of both the Managing Authority and Supervisory Body will also adhere to the following principles:

5.3.1 Staff will carry out their duty to ensure optimum care for service users and patients that meets the needs of the individual and protects their Human Rights.

5.3.2 Staff at all levels will work collaboratively with colleagues across organisations, to ensure efficient and consistent working practices, to ensure timely and effective communication and information sharing and to maximise efficiency of resources.

5.3.3 Every effort will be made by those with a duty of care towards an individual to prevent deprivation of liberty. This includes both commissioners and providers of care.

5.3.4 The dignity and well being of the relevant person will be paramount at all times. A personalised approach will be taken that maximises freedom, minimises control and supports and encourages contacts with family, carers and friends.

5.3.5 Staff will consider safeguarding within every aspect of their responsibilities and will report potential safeguarding issues as defined by “No Secrets in
Bristol: Interagency Safeguarding Adults Board Policy and Procedures” and in accordance with this guidance.

5.3.6 Staff will seek to engage anyone involved in caring for a person, anyone named by them as a person to consult and anyone with an interest in the person’s welfare, and ensure they are consulted in decision-making.

5.3.7 Every effort should be made to resolve disputes surrounding a decision to deprive a person of their liberty locally and informally. Both Managing Authorities and Supervisory Bodies should be willing to engage in constructive discussion.

5.3.8 Staff of both the Supervisory Bodies and Managing Authorities will maintain succinct, systematic and accurate records, which demonstrate both good practice and safe practice within the law. This should not be limited to completion of Standard Forms and letters.

5.3.9 All organisations and services involved in the deprivation of liberty should seek to develop good practice by monitoring and reviewing their processes as part of the organisation’s governance structure.
6. **Key responsibilities in relation to the DoLS**

6.1 **Key responsibilities of Bristol City Council and NHS Bristol in their role as Supervisory Bodies:**

6.1.1 To have overall responsibility for administering the DoLS assessment process, including responsibility to:

- receive applications from Managing Authorities for standard authorisations of deprivation of liberty;
- commission the required assessments of the relevant person to ascertain whether or not they meet the qualifying requirements for a Standard Authorisation.
- grant or refuse authorisations for deprivation of liberty
- specify the duration of and attach appropriate conditions to deprivation of liberty authorisations.
- appoint a relevant person’s representative to represent the interests of the relevant person, where an authorisation for deprivation of liberty has been granted,
- respond to requests to review an authorisation for deprivation of liberty.
- respond to requests to investigate potential unauthorised deprivation of liberty cases.

6.1.2 To coordinate a dedicated interagency Deprivation of Liberty Safeguards (DoLS) Service to undertake the work related to deprivation of liberty.

6.1.3 To ensure there is a clear referral pathway for all Managing Authorities for all issues relating to DoLS.

6.1.4 To recruit assessors that have the necessary skills, qualifications and experience as outlined in the DoLS Code of Practice.

6.1.5 To ensure all staff working as assessors or in any capacity within the DoLS Service receive adequate training to perform their role.

6.1.6 To offer and deliver training in Deprivation of Liberty and Safeguarding to any staff working for a Managing Authority or Supervisory Body and may have a duty of care towards adults receiving care or health services.

6.1.7 To ensure consistency and equality of access, and outcomes from, Deprivation of Liberty Safeguards services.

6.1.8 To make this document available to all local authority and independent care homes, hospitals and relevant staff from the Supervisory Body and to ensure information pertaining to the procedures and processes contained within this document is communicated in a timely and effective manner.

6.1.9 To record management information and use it to measure the effectiveness of the process outlined within this document and to assess the nature of
the authorisations both granted and refused in light of the local population of Bristol.

6.1.10 To use management information and reviews to develop good practice and communicate this information to relevant departments, such as those involved with commissioning care and support services.

6.1.11 To enhance contract monitoring of care homes and hospitals through combined intelligent information arising from assessments of care plans and levels of restrictive practice.

6.2 In Bristol, the statutory duties of the Supervisory Bodies will be discharged through a partnership arrangement between Bristol City Council and NHS Bristol under Section 75 of the National Health Service Act 2006. The partnership arrangements will provide a service to meet the requirements of the Deprivation of Liberty Safeguards. Within this agreement the Deprivation of Liberty Safeguards Service (DoLS Service) will be acting on behalf of Bristol City Council and NHS Bristol in providing DoLS related advice, accepting the initial applications, commissioning and coordinating the required assessments and review processes.

6.3 The DoLS Service will provide the single point of contact for all informal and formal deprivation of liberty safeguards enquiries. See paragraph 7.2.2 for the contact details for Bristol DoLS Service.

6.4 The responsibility for statutory duties of the Supervisory Bodies, i.e. granting or refusing an authorisation, setting the period of authorisation and attaching any conditions to the authorisation, are not currently delegated under these arrangements and therefore remain the responsibility of the relevant Supervisory Body.

6.5 NHS Bristol has a statutory duty to act as a Supervisory Body for those people who fall within the scope of the DoLS within hospital environments. See paragraph 7.3.3 for DoLS responsible persons in NHS Bristol.

6.6 Bristol City Council has a statutory duty to act as a Supervisory Body for those people who may come within the scope of the DoLS within registered care home environments. See paragraph 7.3.2 for DoLS responsible persons in Bristol City Council.

6.7 The following are the key responsibilities of care homes and hospitals in their role as Managing Authorities:

6.7.1 To adapt care planning processes to ensure consideration is given to whether a person has the capacity to consent to the care or health treatment arrangements and whether these are likely to result in a deprivation of liberty.

6.7.2 To seek to avoid depriving anyone of their liberty by always considering whether the person’s needs could be met in a less restrictive way and by ensuring that any restrictions are kept to the necessary minimum and are in place for the shortest possible period.

6.7.3 To ensure staff have access to clear and robust procedures and guidance on when a request for a standard authorisation would be required, and the
procedures that should be followed in order to make an application to the Supervisory Body. This requires clear policy and guidance relating to the use of restraint and restrictive practices.

6.7.4 To obtain a Standard Authorisation from the supervisory body in advance of the deprivation of liberty, except in urgent circumstances, and to ensure that no person is deprived of their liberty unless this has been authorised by a Standard or Urgent authorisation.

6.7.5 To ensure that applications for authorisation are not made routinely for all admissions when a person lacks the capacity to decide whether to be admitted. The application for deprivation of liberty authorisation process should be used appropriately and only when it is genuinely necessary for a person to be deprived of their liberty in their best interests.

6.7.6 To maintain effective communication and co-operation with the BIA, MHA and the Supervisory Body both during the assessment process and post authorisation.

6.7.7 To comply with any conditions attached to a Standard Authorisation.

6.7.8 To monitor whether the relevant person’s representative maintains regular contact with the person, informing the supervisory body when this is not the case.

6.7.9 To review the care plan and all actions regarding authorised deprivation of liberty on an ongoing basis and to end the deprivation of liberty and request a formal review when the deprivation of liberty is no longer necessary.

6.7.10 To maintain clear, systematic and accurate records.

6.7.11 Appendix A summarises Managing Authorities’ responsibilities in relation to the Deprivation of Liberty Safeguards process.
7. Procedures and guidelines

7.1 Overview of the Deprivation of Liberty Safeguards Process

7.1.1 The DoLS set out a standard process that a Managing Authority should follow in order to ensure that people are deprived of their liberty only when necessary and within the law.

7.1.2 The deprivation of liberty process consists of five distinctive sub-processes:
   1) Pre-application evaluation and assessment;
   2) Application for Standard Authorisation of deprivation of liberty;
   3) Deprivation of liberty assessment process;
   4) Implementation and monitoring;
   5) Review of the authorised deprivation of liberty;
   Appendix B provides a concise description of the DoLS process.

7.1.3 The deprivation of liberty safeguards process may arise, for example, from a placement planning discussion, a care review, a change in person’s needs or circumstances, or as a result of written or verbal concern of anyone involved in the person’s care.

7.1.4 During the first stage of the deprivation of liberty safeguards process, a Managing Authority needs to establish if deprivation of liberty is, or is at risk of, occurring and whether an application for a standard authorisation of such deprivation of liberty is required. A written record of the decision regarding probability of deprivation of liberty and the reasons for it should be placed into the relevant person’s records. Paragraphs 7.6.1 to 7.6.6 explain what actions and decisions should be made prior to application for standard authorisation.

7.1.5 When deprivation of liberty is the least restrictive option and is in the best interest of the relevant person, the Managing Authority must apply for a standard authorisation of deprivation of liberty to the appropriate supervisory body (and, in urgent circumstances, grant themselves an urgent authorisation). Sections 7.6 and 7.10 contain guidance on how to do so.

7.1.6 The Supervisory Body will perform six assessments in order to determine whether the deprivation of liberty can be authorised. See Sections 7.7 to 7.9 for details of the assessment process.

7.1.7 If any of the assessments come back negative the assessment process stops and the authorisation is not granted. Actions to be followed are summarised in Section 7.11.

7.1.8 If all assessments agree, the supervisory body will issue a Standard Authorisation with conditions attached as explained in Section 7.12.

7.1.9 All granted authorisations should be monitored by the Managing Authority. See Section 7.13 for further guidance.

7.1.10 If circumstances change then the Managing Authority should apply for a review. Review can also be requested by the relevant person or their
The supervisory body must also carry out a review when statutory review grounds are met. The review procedures are explained in Section 7.14.

7.1.11 The DoLS set out a separate procedure for the situations when someone thinks a person is being deprived of their liberty without authorisation. The process for reporting concerns and for assessing whether unauthorised deprivation of liberty is occurring is described in Section 7.15.

7.2 The Deprivation of Liberty Safeguards Service

7.2.1 All DoLS assessments in Bristol are coordinated through a single route. Bristol City Council and NHS Bristol have developed an integrated service model for the implementation of the Deprivation of Liberty Safeguards and have appointed a specialist DoLS Service to respond to requests for standard authorisations from Managing Authorities.

7.2.2 The DoLS Service will be located in:

Red House,
Heggard Close
Withywood
Bristol City Council
BS13 7SE
Tel: XXXXXXXXXX
Fax: XXXXXXXXXXXXX
E-mail: dols@bristol.gov.uk

(E-mail should be used for general enquiries only, NO personal or confidential information should be sent by email)

7.2.3 Bristol DoLS Service consists of the following roles:

- **DoLS Coordinator**, who will take overall responsibility for coordinating the DoLS Service, ensuring compliance with the regulations and monitoring service quality.
- **DoLS Administrator**, who will take day to day responsibility for administering DoLS processes and communications, under the supervision of the DoLS Coordinator.

7.2.4 In addition to the above, other professionals will be drawn in under various contractual arrangements as follows:

- **Best Interest Assessors (BIAs)** will carry out the Age, No Refusals, Mental Capacity and Best Interest assessments under the DoLS.
- **Mental Health Assessors (MHAs)** will undertake the Mental Health and Eligibility assessments under the DoLS.
- **Independent Mental Capacity Advocates (DoLS IMCAs)** will provide advocacy for the relevant person and/or their representative at various stages of the DoLS process.
- **Paid professional representatives** will represent and support to the relevant person, who is subject to the authorised deprivation of liberty,
when the BIA is unable to recommend anybody to be the relevant person’s representative.

7.2.5 Bristol DoLS service is available for help and advice on all aspects of the Deprivation of Liberty safeguards. See Appendix C “Bristol DoLS Service Contact Details”. For example, the DoLS Service can be contacted to discuss any queries Managing Authority staff may have about a potential application. All such advice will be confirmed in writing and should be included in the relevant person’s records. It remains the Managing Authority’s responsibility to decide whether application for a StandardAuthorisation is required.

7.3 DoLS Responsible Persons in Supervisory Bodies

7.3.1 Bristol City Council and NHS Bristol do not delegate to each other their responsibilities for statutory duties of the Supervisory Bodies, i.e. granting or refusing an authorisation, setting the period of authorisation, attaching any conditions to the authorisation, and reviewing authorisations. These duties remain the responsibility of the relevant Supervisory Body.

7.3.2 Bristol City Council delegates its Supervisory Body responsibilities as described in paragraph 7.3.1, with three levels of deputising to ensure service continuity as follows:

First Instance: DoLS Coordinator.
Deputised by (1st level): Safeguarding Adults Coordinator
2nd level of deputising: HSC Adult Care Service Manager
3rd level of deputising: HSC Head of Service

7.3.3 NHS Bristol delegates its Supervisory Body responsibilities, as described in paragraph 7.3.1, with three levels of deputising to ensure service continuity as follows:

First Instance: __________________________
Deputised by (1st level): __________________________
2nd level of deputising: __________________________
3rd level of deputising: ___________________

7.4 DoLS Responsible Persons in Managing Authorities

7.4.1 The DoLS 2007 place overall responsibility for applying for authorisation of deprivation of liberty for any person who may come within the scope of the Deprivation of Liberty Safeguards on a Managing Authority:

7.4.2 In the case of an NHS hospital, the managing authority is the NHS body responsible for the running of the hospital in which the relevant person is, or is to be, resident.

7.4.3 In the case of a care home or a private hospital, the managing authority will be the person registered, or required to be registered, under part 2 of the Care standards Act 2000 in respect of the care home or hospital.
7.4.4 This responsibility can be delegated within each organisation, provided that the responsibility for issuing urgent and applying for standard authorisations remains with relatively senior members of staff. The Managing Authority internal policy and procedure should clearly identify the responsible persons in relation to the DoLS.

7.5 **Standard Forms and Record-keeping Requirements**

7.5.1 Supervisory Bodies and Managing Authorities should keep detailed records at all stages of the DoLS process. In order to comply with the required standards of record-keeping, Managing Authorities and Supervisory Bodies should use the Department of Health standard forms without alteration. The list of the Department of Health standard forms used for administering the deprivation of liberty process is in Appendix D. These forms are available to download, together with accompanying guidance, at:


7.5.2 Appendix E outlines the DoLS process and summarises how the standard forms are used throughout the process.

7.5.3 Appendix F lists DoLS Service letters to be used in addition to the standard letters and forms.

7.6 **Applying for a Standard Authorisation (Managing Authority)**

7.6.1 Managing authorities will need to ensure they have workable internal procedures in place to identify if deprivation of liberty is occurring or is about to occur and whether the person lacks capacity to consent to such arrangements, whether an application for a standard authorisation of deprivation of liberty is required, and whether exceptional circumstances require the Managing Authority to issue an urgent authorisation (see Section 7.10 below). Procedures should clearly identify who within the Managing Authority is responsible for taking action at each stage, for example, signing an application.

7.6.2 Managing authorities will need to ensure every effort has been made to avoid deprivation of liberty. Appendix E.1 identifies the issues and factors Managing Authorities will need to consider before an application for a standard authorisation of deprivation of liberty can be made.

7.6.3 In order to be able to apply for a deprivation of liberty authorisation, a Managing Authority should have a reasonable expectation that the six qualifying assessments, as described in paragraph 7.8.3 below, will support the deprivation of liberty.

7.6.4 If all qualifying restrictions are likely to be met, a deprivation of liberty authorisation is required and should be applied for. A pre-application checklist in Appendix G can assist systematic decision-making process.

7.6.5 When a deprivation of liberty issue is considered, all decisions, actions and correspondence in relation to the DoLS process should be accurately
documented and evidenced by the Managing Authority and included in the person’s records.

7.6.6 The DoLS Service will be available for informal discussion and advice at this stage. However, the advice will be based on the information provided at a time and the responsibility for the decision whether or not to make an application remains with the Managing Authorities.

7.6.7 Where it is decided that an authorisation is required, the responsible member of staff identified in the Managing Authority internal procedure should apply for a standard deprivation of liberty authorisation by completing Standard Form 4 (See Appendix D).

7.6.8 The completed Standard Form 4 should be sent, by secure fax or a recorded delivery post, to Bristol DoLS Service (Appendix C). There are special arrangements when Bristol City Council or NHS Bristol are not the correct supervisory bodies. See Section 7.16 for identifying the correct Supervisory Body and out of area assessments arrangements.

7.6.9 Once Standard Form 4 has been sent to the DoLS Service, the Managing Authority should, if judged appropriate and practicable, inform the family and carers of the relevant person that an application for a standard authorisation has been made. The Managing Authority should keep a copy of Standard Form 4 and clear written records of the reasons for the application.

7.7 Receiving a request for assessment for a Standard Authorisation

7.7.1 Upon the receipt of Standard Form 4, the DoLS Service will consider whether the application is appropriate, complete or whether any additional information is required from the Managing Authority.

7.7.2 The DoLS Service will acknowledge all applications for standard authorisation in writing. The acknowledgement letter will confirm whether the assessment process can start and, at the same time, the DoLS Service may request any information that is missing from the application. If Standard Form 4 is both complete and valid the DoLS Service will contact the Managing Authority and discuss the assessment process.

7.7.3 The DoLS Service may refer Standard Form 4 back to the Managing Authority if:

- Standard Form 4 does not contain enough information to start the assessment process. In this case, the acknowledgement letter will explain that the application process will be restarted on receipt of the revised application/information.
- the application has been made too far in advance, i.e. the deprivation of liberty is not expected to occur in the next 28 calendar days. In this case, the DoLS Service will ask the Managing Authority to resubmit at a more appropriate time.

7.7.4 From the date of receipt of complete and valid Standard Form 4, the Supervisory Body will have 21 calendar days in total in which to complete
all assessments and respond to the Managing Authority’s request for a standard authorisation of deprivation of liberty.

7.7.5 Different timescales apply to the assessment process, when an urgent authorisation was issued by the Managing Authority. See paragraph 7.10.6 below.

7.7.6 As soon as the DoLS Service has confirmed that the request for a Standard Authorisation should be pursued, it must obtain the relevant assessments to ascertain whether the qualifying requirements of the deprivation of liberty safeguards are met.

7.7.7 The DoLS Service should use an effective application tracking and records-keeping system to ensure that all applications are processed in time and all information relating to the application is accurately recorded. A DoLS Service Assessment Checklist is included in Appendix H can be used for this purpose.

7.7.8 Chapter 4 of the DoLS Code of Practice describes in detail what assessments have to be undertaken in order for a standard authorisation to be given and sets out the criteria for selecting and appointing suitable and eligible assessors.

7.7.9 The DoLS Coordinator will appoint suitable and eligible assessors with required level of skills, experience, qualifications and training to perform deprivation of liberty authorisation assessments by completing Standard Forms 28 and 29.

7.7.10 The choice of assessors will be governed by:

- ensuring compliance with regulations. See paragraph 4.13 of the DoLS Code of Practice for details on how assessors should be selected and the Department of Health regulations gateway number 11240 available at: http://www.dh.gov.uk/en/SocialCare/Deliveringadultsocialcare/MentalCapacity/MentalCapacityActDeprivationofLibertySafeguards/DH_084948
- knowledge of the relevant person
- skills and specialist knowledge for the relevant persons needs
- expedience of resources

7.7.11 The DoLS Coordinator should check each appointed assessor to ensure that eligibility requirements are met and that there is no conflict of interest or direct funding connection.

7.7.12 The DoLS Coordinator should use Standard Form 28 to appoint the Best Interest Assessor (BIA), indicating in Part B of Standard Form 28 what other assessments the BIA is asked to perform.

7.7.13 The DoLS Coordinator should use Standard Form 29 to appoint the Mental Health Assessor (MHA), indicating in Part B of Standard Form 29 if the MHA is also asked to perform Mental Capacity and/or Eligibility assessment.
7.7.14 Independent Mental Capacity Advocate. If the relevant person does not have somebody engaged in providing care or treatment, other than in a professional capacity or for remuneration, to support them, the DoLS Service will need to instruct an Independent Mental Capacity Advocate (IMCA) using Standard Form 30. Paragraphs 3.22 to 3.28 of the DoLS Code of Practice contain more details on the role and function of the IMCA.

7.8 Assessment process for a Standard Authorisation

7.8.1 Appendix E.4 summarises the DoLS assessment process. Staff should refer to Chapter 4 of the DoLS Code of Practice for full guidance on each of the assessments, their purpose and how they should be conducted.

7.8.2 Assessors may need to examine and take copies of any records held by the Managing Authority which they consider may be relevant to their assessment. The Managing Authority should provide assessors with access to these records as requested.

7.8.3 The following six assessments will normally need to be completed using Standard Forms:

7.8.3.1 **Age Assessment** (Standard Form 5). This assessment is to establish if the relevant person is aged 18 or over. See paragraphs 4.23 and 4.24 of the DoLS Code of Practice for further guidance.

7.8.3.2 **Mental Health Assessment** (Standard Form 6). This assessment must be conducted by a Mental Health Assessor. The purpose of the assessment is to establish whether the relevant person has a mental disorder within the meaning of the Mental Health Act 1983, and to comment on the likely impact of an ongoing deprivation of liberty on the relevant person’s mental health. See paragraphs 4.33 to 4.39 of the DoLS Code of Practice for further guidance.

7.8.3.3 **Mental Capacity Assessment** (Standard Form 7). This assessment establishes whether the relevant person lacks the capacity to consent to the arrangements proposed for their care or treatment. It will be conducted by the BIA unless the relevant person is already known to the Mental Health Assessor, in which case, the Mental Health Assessor may conduct this assessment. See paragraphs 4.29 to 4.32 of the DoLS Code of Practice for further guidance.

7.8.3.4 **No Refusals Assessment** (Standard Form 8). This assessment establishes whether an authorisation for deprivation of liberty would conflict with other existing authority for decision making for that person, such as a valid and applicable Advance Decision to Refuse Treatment. See paragraphs 4.5 to 4.28 of the DoLS Code of Practice for further guidance.

7.8.3.5 **Eligibility Assessment** (Standard Form 9). This assessment establishes whether the relevant person is subject to a requirement under the Mental Health Act 1983 that may conflict with an authorisation under the DoLS or whether their care should be provided under the Mental Health Act 1983. In Bristol, the MHA will generally complete
both the Mental Health Assessment and the Eligibility Assessments, unless the BIA is an AMHP and there are compelling reasons that the BIA should also complete the eligibility assessment. See paragraphs 4.58 to 4.76 of the DoLS Code of Practice for further guidance.

7.8.3.6 **Best Interest Assessment** (Standard Form 10). This assessment establishes whether the proposed deprivation of liberty is in the relevant person’s best interests, is necessary to prevent harm to themselves and that the deprivation of liberty is proportionate to the likelihood and seriousness of the harm. This assessment must be conducted by the BIA. See paragraphs 4.58 to 4.76 of the DoLS Code of Practice for further guidance on the Best Interest assessments.

7.8.4 The DoLS Coordinator may choose to use an equivalent assessment instead of obtaining a fresh assessment. An equivalent assessment is an assessment that has been carried out in the last twelve months, not necessarily for the purpose of a deprivation of liberty authorisation, meets all the requirements of the DoLS assessment which is the supervisory body is satisfied is accurate and of which the supervisory body has a copy. If equivalent assessments are used, the DoLS Coordinator will complete Standard Form 11.

7.8.5 All assessors should inform the DoLS Service as soon as possible if they anticipate any problems, complications or delays that may mean the assessment is not going to be completed within the statutory time limits.

7.8.6 If during the assessment, an assessor has any Safeguarding concerns, including where a potential deprivation of liberty is affecting a number of people within a care home or hospital ward, they should make a Safeguarding referral to the Safeguarding Adults at Bristol City Council.

7.8.7 BIA duties during the assessment process

7.8.7.1 The Best Interest Assessment is one of the most important assessments that the Supervisory Body is required to obtain before a standard authorisation of deprivation of liberty can be granted. As part of the Best Interest Assessment, the BIA should establish whether deprivation of liberty is occurring, or is likely to occur, and if the deprivation of liberty is in the person’s best interests.

7.8.7.2 The BIA should also identify if there is anyone they would recommend to become the relevant person’s representative should the authorisation be granted as a result of the DoLS assessment process. The role of the Relevant Person’s Representative is to maintain contact with the relevant person and to provide independent representation and support to the relevant person in all matters relating to the deprivation of liberty safeguards, including triggering a review. Chapter 7 of the DoLS Code of Practice provides details on the relevant person’s representative role and selection criteria.

7.8.7.3 The BIA should follow guidance in paragraphs 7.9 to 7.21 of the DoLS Code of Practice to identify and select the relevant person’s
representative during the assessment process and recommend the most suitable candidate by completing Standard Form 24.

7.8.7.4 If the relevant person does not have anyone who could act as the relevant persons representative, the BIA should state so in Standard Form 24.

7.8.7.5 If the BIA considers that deprivation of liberty is occurring, or is likely to occur, but is not going to support this deprivation of liberty, the BIA should attempt, whenever possible, to discuss with the Managing Authority suitable alternative courses of action and the possibility of such alternatives.

7.8.7.6 If during the assessment process, the BIA concludes that a deprivation of liberty is already occurring and is not going to support it, the BIA should write to the Managing Authority requesting them to change the care arrangements to stop deprivation of liberty. The Managing Authority should implement the BIA recommendations in the most effective and consistent way and inform the BIA and the DoLS Service in writing about all changes to the care arrangements.

7.8.7.7 If following the BIA’s request to stop unauthorised and unjustified deprivation of liberty, the Managing Authority refuses to implement the requested changes or the BIA is not entirely satisfied with actions undertaken to stop the unauthorised deprivation of liberty, the BIA should notify the inspection body (CQC) and make a Safeguarding Adults referral.

7.8.7.8 If the BIA supports deprivation of liberty, they should seek to discuss the proposed period of authorisation and any proposed conditions with the Managing Authority before the assessment is finalised and discuss the choice of the relevant person’s representative to be recommended by the BIA.

7.9 Assessment outcome report

7.9.1 If all six assessments support the deprivation of liberty authorisation, the DoLS Coordinator should complete Standard Form 12.

7.9.2 If any of the assessments conclude that one of the requirements is NOT met, then the assessment process should stop immediately and authorisation may not be given. The DoLS Coordinator should complete Standard Form 13 at this stage.

7.9.3 Completed Standard Forms 12 or 13 and supporting documentation should be given to one of the responsible persons in the relevant Supervisory Body, identified in paragraphs 7.3.2 and 7.3.3, who has responsibility for signing the outcome report and officially granting or refusing the authorisation.

7.9.4 Before signing Standard Form 12 or 13 the responsible person should satisfy themselves that the assessment process was conducted appropriately and that all assessments are completed to a required
standard. They should also consider any conditions and the duration of authorisation as recommended by the BIA in their report.

7.9.5 Once the outcome report (Standard Forms 12 or 13) is signed, the DoLS Service will ensure the following:

7.9.5.1 A copy of completed and signed Standard Form 12 or 13 is scanned and indexed for PARIS and/or any other ICT system used by the DoLS service for electronic records-keeping.

7.9.5.2 Written copies of completed and signed Standard Form 12 or 13 are sent to:

- the Managing Authority;
- the relevant person;
- the relevant person’s representative;
- any IMCA involved;
- any other interested persons consulted by the BIA.

7.9.5.3 The relevant commissioning service of the Supervisory Body is informed of the outcome, if required.

7.9.5.4 The Managing Authority has information regarding the DoLS complaints procedures of the Supervisory Body and rights to appeal against the assessment process.

7.9.5.5 Standard Form 32 “Record of assessments, authorisations and reviews” is completed.

7.9.5.6 If required, the DoLS Service Assessment checklist (Appendix H) is completed and recorded.

7.9.6 The Managing Authority should include the outcome report (Standard Forms 12 or 13) with the relevant person’s records.

7.10 **Urgent Authorisation Process**

7.10.1 In exceptional circumstances, where deprivation of liberty needs to commence before a Standard Authorisation can be obtained, the Managing Authority can issue itself an urgent authorisation which will make the deprivation of liberty lawful for a maximum of seven calendar days. Appendix E.3 summarises the urgent authorisation process.

7.10.2 Managing Authorities should have a procedure in place giving clear guidance to staff about the actions, responsibilities and timescales required for issuing urgent authorisations, including responsibility for signing urgent authorisations and deputising arrangements.

7.10.3 When making a decision whether to issue the urgent authorisation, the Managing Authority should follow the guidance in Chapter 6 of the DoLS Code of Practice.

7.10.4 An urgent authorisation is issued by completing Standard Form 1 and sending it by secure fax or recorded delivery post to the correct supervisory body. See paragraph 7.16.1 for determining the correct supervisory body.
7.10.5 An urgent authorisation can never be issued without applying for a standard authorisation first. If the Managing Authority has not yet made an application for a standard authorisation, Standard Form 4 should be completed simultaneously with issuing of an urgent authorisation.

7.10.6 When an urgent authorisation is issued by the Managing Authority, the Supervisory Body will need to undertake the same assessment process as described in Section 7.8 but within the period the urgent authorisation has been issued for, which cannot exceed seven calendar days and one further extension of a maximum seven calendar days.

7.10.7 The Managing Authority should keep a written record of any urgent authorisation given, including details of why it decided to give an urgent authorisation. A copy of Standard Form 1 must be given to the relevant person and any IMCA instructed, and a copy must be placed in the relevant person’s records.

7.10.8 The Managing Authority must seek to ensure that, as far as possible, the relevant person understands the effect of the authorisation and the right to challenge the authorisation via the Court of Protection. Appropriate information must be given both orally and in writing.

7.10.9 The Managing Authority should, as far as possible and appropriate, notify the relevant person’s family, friends and carers when an urgent authorisation is given in order to enable them to offer informed support to the person.

7.10.10 Extending Urgent Authorisation

7.10.10.1 In exceptional circumstances, where the standard authorisation assessment cannot be completed within the period of the urgent authorisation, the Managing Authority can apply to extend the period of the urgent authorisation for a maximum of a further seven calendar days by completing Standard Form 2 and giving it to the DoLS Service.

7.10.10.2 The Managing Authority should keep a written record of the reason for making the request to extend the urgent authorisation and must notify the relevant person, in writing, that they have made this request.

7.10.10.3 The DoLS Coordinator will decide whether the extension can be granted and will record the supervisory body’s decision using Standard Form 3. The Managing Authority should give a copy of Standard Form 3 to the relevant person and any IMCA involved and place a copy in the relevant person’s records.

7.10.10.4 If an extension of the urgent authorisation is granted, the DoLS Coordinator will complete part H of Standard Form 1 and will provide a copy of Part H of Standard Form 1 to the Managing Authority. The Managing Authority must give a copy of the varied urgent authorisation (Part H of Standard Form 1) to the relevant person and any IMCA instructed, and place a copy in the relevant person’s records.

7.10.10.5 The Managing Authority must seek to ensure that, as far as possible, the relevant person understands the effect of the extension of the urgent
authorisation and the right to challenge the authorisation via the Court of Protection. Appropriate information must be given both orally and in writing.

7.10.11 The urgent authorisation will cease at the end of the period it was issued and any additional period it was extended for, if applies.

7.10.12 The urgent authorisation will also cease once the assessment process for the standard authorisation is complete and outcome Standard Forms 12 or 13 are completed by the Supervisory Body.

7.10.13 The Supervisory Body must inform all relevant parties that the urgent authorisation has ended. When relevant, this notification should be combined with the notification of the outcome of the standard authorisation assessment process (Standard Forms 12 or 13).

7.11 When Standard Authorisation is Denied

7.11.1 Where the standard authorisation of deprivation of liberty is not granted, Standard Form 13 should contain recommendations of alternative actions.

7.11.2 The Managing Authority should make alternative arrangements for care where authorisation is not granted, based on the recommendations made in the outcome report and ensuring urgent action is taken to prevent unlawful deprivation of liberty.

7.11.3 The Managing Authority must take urgent actions where Standard Form 13 contains BIA conclusion that a deprivation of liberty is already occurring but the requirements for standard authorisation are not met. See paragraphs 7.11.10 to 7.11.14 below.

7.11.4 In certain circumstances, it will be necessary for the Supervisory Body and Managing Authority to have a Planning Meeting to discuss the required action in response to the refusal of deprivation of liberty authorisation. Where a planning meeting is required, it should take place as soon as possible and normally within 5 days. The required attendees at the planning meeting will include the BIA, a relevant funding provider or service commissioner, any IMCA involved in the case, a senior management representative from the Managing Authority and the relevant person’s lead professional (such as a care manager, continuing health care Assessor or key worker).

7.11.5 The purpose of the planning meeting is to establish actions and processes required to ensure that the Managing Authority does not deprive a person of their liberty unlawfully. The planning meeting will also set the processes for internal audit and review to minimise risks of depriving someone of their liberty. The planning meeting can also consider any additional resource requirements for the Managing Authority resulting from the recommendations of the BIA to amend the care plan.

7.11.6 The planning meeting should set out the timeframe for implementing the actions following the standard authorisation refusal. The planning meeting should also consider an appropriate date for review of the care or treatment once the care plan has been amended.
7.11.7 All outcomes from the planning meetings and dates for review should be recorded by the DoLS Service.

7.11.8 Dependent upon the circumstances of the case, the DoLS Service should consider whether referral to the relevant regulatory body or Safeguarding Adults team is required.

7.11.9 Actions to be taken, if the Supervisory Body decides not to grant a standard authorisation, will depend on the reason(s) the authorisation was turned down:

- If Eligibility or Mental Health assessments are negative, the Mental Health Act 1983 provisions may be considered.
- If Age assessment is negative, the Children Act 1989 could be considered.
- If the Mental capacity assessor concludes that the person has capacity to make decisions about their care, the care home will need to consider, in conjunction with the funding providers, i.e. the commissioner of the care, how to support the person to make their own decisions.
- Often, people make valid decisions about refusing care or treatment when they are still capable of doing so or there are valid refusals by attorneys or deputies appointed on their behalf. If there is a question about refusal, a decision may be sought from the Court of Protection.
- Based on the Best interest assessor’s report, there may be ways to support the person in a less restrictive manner that avoids deprivation of liberty.
- If the deprivation of liberty is not in the person’s best interests, the Managing Authority (together with funding providers, i.e. commissioners of care) needs to make sure that the person is supported in a way that avoids deprivation of liberty.
- If the person is not yet a resident in the care home, the revised care plan may exclude admission to that facility.
- If the relevant person is not being deprived of liberty, the Managing Authority should continue to support them without taking further action.

7.11.10 A detailed report on the care plan review after the authorisation request was denied should be sent to the DoLS Service. The report should clearly state what actions the Managing Authority has undertaken in response to the Supervisory Body’s decision not to authorise deprivation of liberty.

7.11.11 The steps taken to end the deprivation of liberty should be recorded in the care plan. Where possible it will be important to involve family, friends and carers in these decisions.

7.11.12 If the BIA confirms that the relevant person is being deprived of their liberty but the authorisation requirements are not met, the DoLS Service should inform the Managing Authority that the care plan must be immediately
reviewed to ensure that unauthorised deprivation of liberty will not continue.

7.11.13 The Supervisory Body will at the same time ensure that a Safeguarding adults referral is made via Bristol Care Direct. The BIA should be able to inform this referral. The Safeguarding Adults team will liaise with the DoLS Coordinator to ensure any concerns about possible abusive practice in the acre home or hospital ward in respect of either the relevant home or others are addressed using the Safeguarding Adults Policy (“No Secretes in Bristol”).

7.11.14 The Supervisory Body will monitor the cessation of the deprivation of liberty and, in case of any concerns that the matter is not satisfactorily resolved within an appropriately urgent timescales, the DoLS Service or the BIA will also alert the regulatory body (CQC).

7.12 When Standard Authorisation is granted

7.12.1 Once a standard authorisation is granted, the relevant person’s representative should be appointed based on the BIA’s recommendation in Standard Form 24. This appointment of the relevant person’s representative should be confirmed in writing: the DoLS service should complete Standard Form 25 and give it to the person identified in Standard Form 24 completed by the BIA. Standard Form 25 should then be signed by the representative and copies sent to:

- the Managing Authority;
- the relevant person;
- any IMCA involved;
- any other person consulted by the BIA.

7.12.2 Details about who the person’s representative is should be recorded in the person’s health and social care records.

7.12.3 The role of the relevant person’s representative is to maintain contact with the relevant person and to present and support the relevant person in all matters relating to the operation of the deprivation of liberty safeguards, including if appropriate, triggering a review, using the Managing Authority’s or the relevant Supervisory Body’s complaints procedure on the person’s behalf or making an application to the Court of Protection. Chapter 7 of the DoLS Code of Practice explains the role of the relevant person’s representative and gives guidance on their selection and appointment.

7.12.4 If there is any delay in appointing the relevant person’s representative, or if there is a gap in the appointment of the relevant person’s representative, the person who is being deprived of their liberty is particularly vulnerable, because there may be nobody to represent their interests or to apply for a review on their behalf. In these situations, the Supervisory Body should instruct an IMCA to support the relevant person until a representative has been appointed. IMCA can be instructed by completing Standard Form 30.
7.12.5 As soon as possible after an authorisation is issued, the Managing Authority should provide the relevant person and the relevant person’s representative with the following information:

- The effects of authorisation
- Their right to request a review and the process for it
- The formal and informal complaints procedures that are available to them
- Their right to make an application to the Court of Protection to see variation or termination of the authorisation and the process for it, and
- Their right to request the support of an IMCA and the process for it.

7.12.6 The Managing Authority should take all practical steps to ensure that the relevant person and/or the relevant person representative understand the effects of the authorisation and their rights in relation to it. This information must be given both orally and in writing.

7.12.7 When a Standard Authorisation is granted, the relevant person’s care plan needs to be reviewed to include the conditions attached to the authorisation and procedures for ongoing monitoring of authorised deprivation of liberty. See Section 7.13 below.

7.13 Monitoring authorised deprivation of liberty

7.13.1 Following authorisation, the Managing Authority should set out in the care plan clear roles and responsibilities for monitoring an authorised deprivation of. The care plan should include:

- Who is responsible for monitoring the authorised deprivation of liberty, authorised conditions, and monitoring the relevant person’s representative.
- How often will this be reviewed
- What circumstances would trigger a review
- How changed of circumstances are monitored to make sure the authorisation is still required.

7.13.2 Appendix E.5 summarises monitoring activities that the Managing Authority should perform in relation to the authorised deprivation of liberty.

7.13.3 Where possible, the Managing Authority should work towards reducing the restrictions to a level where a deprivation of liberty is no longer necessary.

7.13.4 The person deprived of their liberty should be in ongoing contact with their representative, and the Managing Authority should accommodate visits by the representative at reasonable times.

7.13.5 The Managing Authority should monitor that the representative maintains regular contact with the relevant person. If there is any doubt that the relevant person’s representative is supporting the person effectively, the Managing Authority should discuss their concerns with the relevant person’s representative and attempt to resolve the issues informally or the Managing Authority can raise the issue with the DoLS Service.
7.13.6 In certain circumstances (see paragraph 7.29 of the DoLS Code of Practice), the Supervisory Body can terminate the appointment of the relevant person’s representative by completing Standard Form 26 (“Notice of the pending termination of your appointment as a representative”) and Standard Form 27 (“Termination of a representatives appointment”).

7.13.7 If the appointment of a relevant person’s representative ends but the lawful deprivation of liberty continues, the DoLS Service and the Supervisory Body must appoint a suitable replacement to the relevant person’s representative, as recommended by the BIA, as soon as possible and practical after they become aware of the vacancy. The process outlined in paragraph 7.12.1 should be followed.

7.13.8 The Managing Authority should carry out regular checks of the authorised deprivation of liberty. The purpose of these checks is to establish whether the relevant person still needs to be deprived of their liberty and to establish whether the circumstances changed so significantly that the current authorisation need to be varied or reviewed.

7.13.9 The Managing Authority should confirm that the standard authorisation and its conditions still apply every time care plan is changed or the person’s circumstances have changed.

7.13.10 If deprivation of liberty is still required, but there has been a significant change in circumstances, so conditions attached to the authorisation may need to be varied, the Managing Authority should request a formal review. See paragraph 7.13.16.

7.13.11 If deprivation of liberty is still required, and the person still meets all six qualifying requirements, but for different reasons than those set out in the original authorisation, the Managing Authority should request a formal review. See paragraph 7.13.16.

7.13.12 If deprivation of liberty is still required, but one of the qualifying requirements may no longer be met, the Managing Authority should stop deprivation of liberty immediately and request a formal review. See paragraph 7.13.16 for review requests. There are special arrangements for Mental capacity requirement as explained in paragraphs 7.13.15.

7.13.13 If deprivation of liberty is still required, but the person is now ineligible because they object to receiving mental health treatment in hospital, the Managing Authority should stop deprivation of liberty immediately and request a formal review. See paragraph 7.13.16.

7.13.14 If deprivation of liberty is no longer required for this person, the Managing Authority should stop deprivation of liberty immediately and request a formal review. See paragraph 7.13.16.

7.13.15 There are special provisions for people with fluctuating or temporary capacity. Where a person subject to an authorisation is deemed to have regained the capacity to decide about the arrangements made for their care and treatment, the Managing Authority should assess whether there is consistent evidence of the regaining capacity on a longer-term basis. This
is a clinical judgement that will need to be made by a suitably qualified person. Deprivation of liberty should be stopped and a formal review should be requested only when there is consistent evidence of regaining capacity on the longer-term basis.

7.13.16 The Managing Authority can request the Supervisory Body to perform a review by completing and returning Standard Form 19.

7.13.17 It may be necessary to suspend an authorisation for a short period of time. This could happen, for example, if the relevant person fails to meet the eligibility requirement because they are temporarily subject to provisions under the Mental Health Act 1983. In such cases, the Managing Authority should ask the Supervisory Body to temporarily suspend the current standard authorisation by completing and returning Standard Form 14.

7.13.18 If the relevant person becomes eligible for a standard authorisation again within 28 calendar days, the Managing Authority must inform the Supervisory Body by completing Standard Form 15. This will reinstate the authorisation. If the supervisory body does not receive a request to lift the suspension, the authorisation will cease automatically at the end of 28 calendar days period.

7.14 Reviews and Ending the Authorisation

7.14.1 A standard authorisation can be reviewed at any time. The review is carried out by the Supervisory Body.

7.14.2 Chapter 8 of the DoLS Code of Practice explains the duties of managing authorities and supervisory bodies in relation to reviewing cases, and what happens when an authorisation ends. Appendix E.6 summarises the review process.

7.14.3 Reviews will be conducted where any of the statutory grounds for review as stated in paragraph 8.3 of the Code of Practice are met, or where the Managing Authority, the relevant person or their representative requests a review.

7.14.4 The Managing Authority can request a review by completing Standard Form 19. The relevant person or their representative can request a review by completing Standard Letter 3 or 4 respectively. The DoLS Service should acknowledge receipt of the request to review the authorisation in writing within 24 hours of the request being received.

7.14.5 When the Supervisory Body is going to carry out a review, the DoLS service must complete Standard Form 20 to inform the relevant person, the relevant person’s representative and the Managing Authority of their intention to conduct a review.

7.14.6 The DoLS Coordinator will need to determine which of the requirements need to be reviewed and whether any further action is required. Standard Form 21 should be used to record the Supervisory Body’s decision.

7.14.7 In general, the reviews should follow the same process as the standard authorisation for each of the qualifying requirements that need to be
reviewed. The DoLS Service will have 21 calendar days in total in which to complete the review.

7.14.8 Following the review the assessors should complete the relevant assessment report forms (any of Standard Forms 5, 6, 7, 8, 9 or 10 depending in what requirements have been reviewed). Based on these reviewed assessment outcomes, the DoLS Coordinator should complete Standard Form 22 summarising the outcome of the review and detailing the actions required. Standard Form 32 should also be updated with the review results by the DoLS service.

7.14.9 The review results in Standard Form 22 should be authorised by the responsible person(s) in the relevant Supervisory Body following the same process as signing of Standard Forms 12 or 13 as described in paragraphs 7.9.3 and 7.9.4.

7.14.10 A copy of the Standard Form 22 plus all re-assessed reports will need to be sent to the Managing Authority, the relevant person, their representative, any IMCA instructed and any other persons consulted during the review.

7.14.11 If all reviewed requirements are still met, the review outcome (Standard Form 22) will still support the authorisation. Some of the conditions attached to the authorisation can also be varied as a result of the review.

7.14.12 If as a result of the review, the standard authorisation or its conditions have been varied in any respect, the Managing Authority should amend the relevant person’s care plan accordingly.

7.14.13 If any of the requirements are no longer met, then the authorisation must be terminated immediately. The Supervisory Body can terminate a standard authorisation by completing Standard Form 23. At this point, the appointment of the relevant person’s representative should also be terminated. Standard Forms 26 and 27 can be used for this purpose. Standard Form 32 should be updated by the DoLS service when a standard authorisation is terminated.

7.14.14 If the relevant person does not meet at least one of the six qualifying requirements, the authorisation must be ended immediately and the process described in paragraphs 7.11.2 to 7.11.14 should be followed.

7.14.15 Deprivation of liberty can end before a formal review. An authorisation only permits deprivation of liberty; it does not mean that the person must be deprived where a change of circumstances no longer necessitates it.

7.14.16 A standard authorisation will cease automatically at the end of the period it was issued for. When a standard authorisation comes to an end, the Managing Authority cannot lawfully continue to deprive someone of their liberty.

7.14.17 Where the deprivation of liberty may need to continue after expiry of the current authorisation the Managing Authority needs to apply for a new standard authorisation using Standard Form 4 about 6 weeks before the current authorisation expires. See Section 7.6. The DoLS Service will start a new assessment process as outlined in Sections 7.6 and 7.8 above.
7.15 Unauthorised Deprivation of Liberty Concerns and Investigations

7.15.1 The DoLS 2007 have a special procedure for the situation when anyone believes that a person in a care home or hospital is being deprived of their liberty without authorisation. Chapter 9 of the DoLS Code of Practice explains the process for reporting concerns and for assessing whether unauthorised deprivation of liberty is occurring. Appendix E.2 summarises the procedure for reporting unauthorised deprivation of liberty.

7.15.2 If the relevant person themselves, any relative, friend or carer or any third party (such as, for example, a person carrying out an inspection visit or a member of an advocacy organisation) believes that a person is being deprived of liberty without the Managing Authority having applied for an authorisation, they can draw this concern to the attention of the managing authority in the first instance (paragraphs 7.15.4 to 7.15.10) or they may choose to alert the supervisory body directly (paragraphs 7.15.12 to 7.15.16).

7.15.3 Third party requests made to the Managing Authority

7.15.4 If the Managing Authority receives a third party request to change a care regime in order to avoid a deprivation of liberty or to apply for an authorisation, or a third party expresses any other concern that implies deprivation of liberty, the Managing Authority should normally respond to that request within 24 hours.

7.15.5 The Managing Authority should respond to all third party requests irrespective whether the original request or concern was verbal or in writing.

7.15.6 The Managing Authority should seek to resolve the matter informally with the concerned person. If the Managing Authority is unable to resolve the issue with the concerned person quickly, a request for a standard authorisation should be submitted to the Supervisory Body, accompanied by an urgent authorisation if required.

7.15.7 If the concerned person not satisfied with the Managing Authority’s resolution of the matter, the person can ask the Supervisory Body to decide whether there is an unauthorised deprivation of liberty. It will then be the Supervisory Body’s decision whether to investigate a potential unauthorised deprivation of liberty. The Supervisory Body will inform about their decision by completing Standard Form 16. A copy of this form should be given to the person who raised the concern, the relevant person and any IMCA involved.

7.15.8 If Standard Form 16 contains the Supervisory Body’s decision to investigate an unauthorised deprivation of liberty, a best interest assessor will be appointed to determine whether the care arrangements in this particular case amount to a deprivation of liberty. This assessment, carried out within seven calendar days, will establish whether unlawful deprivation of liberty is occurring. This assessment and its outcome will be recorded using Standard Form 17. Based on the BIA assessment, the Supervisory Body will make a decision in relation to this unauthorised deprivation of liberty.
liberty report and the record of this decision, Standard Form 18, will be
given to the concerned third party who made the request, the relevant
person, the managing authority and any IMCA involved.

7.15.9 If the Supervisory Body's decision is that the person is being deprived of
their liberty and that this deprivation of liberty is NOT authorised, the
Supervisory Body will start a standard authorisation assessment process
as if the Managing Authority had applied for it. The Managing Authority
should therefore provide the Supervisory Body with the information that is
required whenever such a request is actually made, i.e. complete Standard
Form 4 and, if required, issue an urgent authorisation by completing
Standard Form 1.

7.15.10 The DoLS Service could also make the Safeguarding Adults referral if they
believe that the failure to consider a request for assessment by the
managing Authority is an act or omission that constitutes abuse and
safeguarding arrangements are required to ensure the relevant person is
protected.

7.15.11 Third party requests made directly to the Supervisory Body

7.15.12 If a third party raises concerns about a potential unauthorised deprivation
of liberty directly with the Supervisory Body, the Supervisory Body would
immediately arrange a preliminary assessment to determine whether a
deprivation of liberty is occurring.

7.15.13 The supervisory body would then notify the relevant Managing Authority in
writing requesting to resolve the matter informally and take steps to avoid
an unauthorised deprivation of liberty or to request a standard authorisation
in respect of the person who is possibly deprived of liberty.

7.15.14 The Managing Authority should notify of their actions in regards to the
supervisory body's request the concerned third party who made the
request, the relevant person, the Supervisory Body and any IMCA involved.

7.15.15 If the Managing Authority does not submit an application within the agreed
period, and the matter has not been resolved informally, the Supervisory
Body will follow the process set out in paragraphs 7.15.8 to 7.15.11.

7.15.16 The DoLS service should also consider if a safeguarding referral should be
made to ensure the relevant person is protected

7.16 Out of Area Deprivation of Liberty Assessments

7.16.1 Determining Correct Supervisory Body

7.16.1.1 The Managing Authorities need to know who is the correct Supervisory
Body for each deprivation of liberty authorisation application.

7.16.1.2 For hospitals, the supervisory body will be:

- If a PCT commissions the care or treatment, that PCT is the
  Supervisory Body.
• If the National Assembly for Wales or a Local Health Board commissions the care or treatment, the National Assembly are the Supervisory Body
• In any other case, the Supervisory Body is the PCT for the area in which the hospital is situated.

7.16.1.3 For care homes, the supervisory body are the local authority for the area in which the relevant person is ordinarily resident. If the relevant person is not ordinarily resident in the area of a local authority, the supervisory body are the local authority for the area in which the care home is situated. If a care home is situated in the areas of two (or more) local authorities, it is whichever of the areas the greater part of the care home is situated.

7.16.1.4 The term ordinary residence is not defined by statute but has been interpreted by the courts. In general terms it is the place where a person has chosen to have his /her home. Factors such as time, intention and continuity need to be taken into account according to the particular circumstances. For further information see LAC (93) 7. Subsections (5) and (6) of section 24 of the National Assistance Act 1948 (deemed place of ordinary residence) also apply to any determination of where a person is ordinarily resident. Any dispute arising as to the ordinary residence of a person is to be determined by the Secretary of State or by the National Assembly for Wales. Regulations set out which Local authority must take responsibility whilst the matter is being determined.

7.16.1.5 Generally, if a Local Authority is commissioning the care of the relevant person in a care home, then that local authority is the responsible Supervisory Body. For example, Bristol City Council is the responsible Supervisory Body for all care home placements made by them, whether these are in or outside Bristol.

7.16.1.6 If a PCT is commissioning the care of the relevant person in a care home, then the Local Authority of that PCT's area is the responsible Supervisory Body. For example, Bristol City Council is the responsible Supervisory Body for all Bristol PCT's placements in care homes whether these placements are made in or outside Bristol.

7.16.1.7 If there has been no Local authority or PCT involvement in placing the person in the care home (for example, self-funded placements), the responsible Supervisory Body is the one in whose area the care home is located, i.e. Bristol City Council.

7.16.1.8 If a Managing Authority is unsure about which Supervisory Body is responsible in a particular instance, advice from the local DoLS Service should be sought.

7.16.1.9 If there is a dispute over who is the responsible supervisory body, the application should be made to the Local area of the Managing Authority’s location.

7.16.2 Out of area application process
7.16.2.1 If a Managing Authority is in Bristol but needs to make an application to a supervisory body outside Bristol, Bristol DoLS Service may be asked to act as a host supervisory body and assist the correct supervisory body with carrying out the assessments. However, this decision will be made by the two supervisory bodies and the initial application should still be made to the correct supervisory body, where possible.

7.16.2.2 If the correct supervisory body is not NHS Bristol or Bristol City Council, but the relevant person is in a hospital or care home in Bristol, the managing authority should apply for a standard authorisation to the correct Supervisory Body and include Bristol DoLS Service contact details (Appendix C) with the application. This will prevent any delays in processing the application especially in situations when the correct supervisory body needs to instruct Bristol DoLS Service to perform some of the assessments. See paragraph 7.16.2.4 for special provisions for Urgent Authorisations.

7.16.2.3 For Urgent Authorisations, when the correct supervisory body is not NHS Bristol or Bristol City Council, but the relevant person is in a hospital or care home in Bristol, the managing authority should send the Urgent Authorisation notification (Standard Form 1) and the application for a Standard Authorisation (Standard Form 4) to the correct supervisory body together with a letter containing Bristol DoLS Service contact details (Appendix C). Copies of Standard Forms 1 and 4 and all supporting documents and evidence should be simultaneously sent to Bristol DoLS Service.

7.16.2.4 If Bristol City Council or NHS Bristol is the correct Supervisory Body, but the relevant person is in a care home or hospital outside Bristol, the processes and procedures outlined in Appendix I “Protocol for the Inter-Authority Management of Deprivation of Liberty Applications” should be used.

7.17 Complaints, Appeals and Court of Protection

7.17.1 Chapter 10 of the DoLS Code of Practice and Chapter 15 of the MCA Code of Practice explain how disputes and complaints are handled under the Mental Capacity Act 2005.

7.17.2 Wherever possible, concerns about the deprivation of liberty should be resolved informally or through the relevant Managing Authority’s or Supervisory Body’s complaint procedures.

7.17.3 Complaints about the Managing Authority’s actions or decisions in the first instance should be addressed to that Managing Authority.

7.17.4 Complaints about the Supervisory Body’s actions or decisions in the first instance should be addressed to the relevant Supervisory Body. The Supervisory Body will then decide the best way to deal with the complaint depending on the complaint issues and who and what the complaint is about.
7.17.5 In addition to these standard dispute settlement routes, anybody deprived of their liberty in accordance with the Deprivation of Liberty Safeguards is entitled to the right of automatic access to the Court of Protection that can review the lawfulness of their deprivation of liberty. In other words, if the person deprived of their liberty or their representative does not agree with the decision to deprive them of liberty, the new system gives them the right to appeal against the decision in court.

7.17.6 The following people have an automatic right of access to the Court of Protection and do not have to obtain permission from the court to make an application:

- A person who lacks, or is alleged to lack, capacity in relation to a specific decision or action;
- The donor of a Lasting Power of Attorney to whom an application related, or their donee;
- A deputy who has been appointed by the court to act for the person concerned;
- A person named in an existing court order to which the application related,
- The person appointed by the supervisory body as the relevant person's representative.

7.17.7 Managing Authority’s complaint rights

7.17.7.1 Once a standard authorisation has been granted or refused by the Supervisory Body, the Managing Authority itself cannot appeal against the decision. However, the Managing Authority can use Bristol City Council’s or NHS Bristol’s complaint procedure to appeal against the conduct of the assessment process where such disputes could not be resolved informally.

7.17.7.2 Managing Authorities do NOT have an automatic right of access to the Court of Protection and therefore must obtain the permission of the court before making an application.
8. Related Policies and Procedures

8.1 The Deprivation of Liberty Safeguards 2007 and the associated Code of Practice
8.2 The Mental Capacity Act 2005 and the associated Code of Practice
8.4 No Secrets in Bristol: Interagency Safeguarding Adults Board Policy and Procedures
8.5 Data Protection Act
8.6 Complaints Procedure
8.7 Protocol for Inter-Authority Management of Deprivation of Liberty Applications.

9. Website address for this policy

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10. Appendices

Appendix A Managing Authorities Responsibilities in the DoLS Process
Appendix B Overview of the DoLS Process
Appendix C DoLS Service Contact Details
Appendix D List of Department of Health Standard DoLS Standard Forms and Letters
Appendix E Deprivation of Liberty Safeguards Process Diagrams
Appendix F List of additional Bristol DoLS Service letters
Appendix G Managing Authority Pre-application Checklist
Appendix H DoLS Service Assessment Checklist
Appendix I Protocol for the Inter-Authority Management of Deprivation of Liberty Applications

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