

DoLS were introduced within the Mental Capacity Act 2005 (MCA) to prevent breach of the European Convention of Human Rights, specifically the right to liberty.
Care Act 2014 enshrines the new statutory principle of individual wellbeing.

CONSIDERATION FOR A DEPRIVATION OF LIBERTY AUTHORIZATION

I have assessed this person and believe they currently lack the mental capacity to consent to their arrangements of hospital admission, including treatment and care plan		Yes
Deprivation of Liberty Acid Test: Is the person under continuous supervision and control? In a side-room, & being checked on every few hours (as a single action), may not be continuous control & supervision		Yes/ No
Is the person free to leave hospital? This means, if they tried to leave or they or family/ friends made a request to leave, would they be allowed to/ could they assist them to leave? (if free to leave – the person is <u>not</u> being deprived of their liberty)		Yes/ No
If both parts of the Acid Test are not met (ie not under continuous supervision & is free to leave), currently a DoLS does not need to be authorized, but regular review is required and continued use of the Mental Capacity Act (MCA) is indicated		
If both parts of the Acid Test are met, consider the following: Anticipated to regain mental capacity within Urgent Authorization period (7 days) OR Predicted Discharge Date within the Urgent Authorization period (7 days) OR Patient consented to admission and treatment prior to loss of capacity (e.g. Palliative Care planning, planned ICU admissions, consent before emergency ICU admission)		Yes/ No
If Yes to any of the above, continue to treat under the MCA and review regularly, documenting reviews below & in clinical records. If No to above agreed exclusions: Anticipated loss of mental capacity will remain for more than 7 days AND predicated discharge date of more than 7 days:		Yes/ No
Consider DoLS Authorization now and discuss with ADSN or Adult Safeguarding Lead or relevant DoLS Helpdesk for further consideration		
Outcome of consideration: <ul style="list-style-type: none"> • Continue managing under the MCA or • Urgent DoLS Authorized 		Yes/ No Yes/ No
Date:	Name and signature: (Medical Team) Name & signature: (Nursing Team)	

Date	Capacity/ DoL Review	Name and signature

***High Risk trigger factors for applying for DoLS /
Taking a Lapsed DoLS to the Court of Protection (CoP)**

The Trust currently does not plan to take every lapsed DoLS to the CoP, however some cases are likely to need referral. Factors to consider include:

- **Patient (or family) stating they wish to leave hospital**
- **Repeated use of physical or chemical restraint to prevent the person leaving**
- **Family attempting to remove the person from hospital against medical advice**
- **LPA believed to be acting in their own interests rather than the *patients* best interests**
- **Serious conflict between professionals and / or family regarding Best Interests decisions**
- **Adult Safeguarding concerns**

Re-assess mental capacity of the person to make their own decision

Please seek senior clinical advice

Legal advice can be obtained 24/7 if a serious issue arises out of hours