

Deprivation of Liberty Safeguards and You

What is the Mental Capacity Act?

The **Mental Capacity Act** is a law about making decisions and what to do when people cannot make some decisions for themselves. The **Deprivation of Liberty Safeguards** are part of the Mental Capacity Act 2005.

When people cannot make a decision for themselves, this is called **lacking capacity**.

The Mental Capacity Act tells other people how to find out if you can make your own decisions. You might be able to make **some** decisions, but not able to make **other** decisions.

People will need to find out which decisions:

- you can make on your own
- you might need some help with, and
- you cannot make yourself

The Mental Capacity Act tells people how to help you to make decisions for yourself, if you can.

The Mental Capacity Act tells people what to do if you cannot make some of your own decisions (if you are lacking capacity).

The Deprivation of Liberty Safeguards only applies to people who are lacking capacity.

Why has the Government written the Deprivation of Liberty Safeguards?

Sometimes people need treatment or care from people like doctors and nurses or care workers. People who are staying in a hospital or living in a care home should be treated or cared for in a way that means they are safe.

The Government has made new rules to make sure that people can be cared for or treated in a way that is right. These rules are called the **Mental Capacity Act 2005 Deprivation of Liberty Safeguards**.

Why do we need the Deprivation of Liberty Safeguards?

Sometimes you may need treatment or care from people like doctors and nurses or care workers if you are staying in a hospital or living in a care home.

People who are **lacking capacity** need extra protection.

You should be treated or cared for in a way that means you are safe and are free to do the things you want to do.

If you are stopped from doing the things you want all the time, this is called being **deprived of your liberty**. Sometimes people having treatment or care might be deprived of their liberty to keep them safe.

If this happened to you it would have to be in your best interests. People would have to think very carefully about the decisions they make for you, to make sure those decisions are good for you.

If you are deprived of your liberty you need special protection called **safeguards** to make sure you are looked after properly and are kept safe. The **Deprivation of Liberty Safeguards** are the way to give you the special protection you need.

What is a deprivation of liberty?

There is no list of what a **deprivation of liberty** is, but examples include:

- staff in a care home or hospital having control over all of the decisions in your life
- not being allowed to leave the hospital where you are staying or the care home where you live
- your family, carers or friends not being allowed to come and see you.

Deprivation of liberty is about the way:

- other people care for you and treat you
- you feel about the way that people care for you and treat you
- people who care for you and treat you can stop you doing all the things you enjoy

If you are stopped from doing the things you want all the time in a hospital or care home, this is called being deprived of your liberty. If you are being cared for and treated in this way you must have a special agreement called a Deprivation of Liberty Safeguards Authorisation to keep you safe. **This is the law.**

When will the Deprivation of Liberty Safeguards be used?

The Deprivation of Liberty Safeguards are for people who cannot make a decision about the way they are being treated or cared for in a hospital or care home, where other people are having to make this decision for them.

Deprivation of Liberty Safeguards are the way to give you the protection you need when you are being cared for or treated in ways that deprive you of your liberty.

The Deprivation of Liberty Safeguards are for:

- people living in England or Wales
- people who are 18 years old or older
- people who have a mental disorder such as dementia (a sort of mental illness) or a learning disability
- people who live in a care home or are staying in hospital, who are lacking capacity to agree to be there. (The people need to be there to get the treatment or care that will protect them from harm in their best interests).

What happens if you are being deprived of your liberty?

There is a book of rules that explains what should happen. This is called the **Code of Practice** and tells the people involved what to do.

The Code of Practice says that the people who are caring for or treating you are called the **managing authority**. If the managing authority thinks they need to deprive you of your liberty, they must make sure they are not breaking the law.

The managing authority must write to something called the **supervisory body** (your local council or health board) to tell them that they think you need **Deprivation of Liberty Safeguards**.

The Code of Practice says the supervisory body must decide if you need Deprivation of Liberty Safeguards. They will do this by arranging at least 2 people to check how you are being treated or cared for. These people are called **assessors**.

One assessor is called the **Best Interests Assessor**. The Best Interests Assessor will be a person who does not work with you.

The Best Interests Assessor will write a report to tell the supervisory body if you need a Deprivation of Liberty Safeguards Authorisation and for how long this should be.

The Deprivation of Liberty Safeguards should be for as short a time as possible and never for longer than a year.

What will happen after the Best Interests Assessor's report?

The **Best Interests Assessor's** report might say you are being deprived of your liberty and that this is in your best interests.

Then the supervisory body will write to the **managing authority** to tell them this and ask them to explain this to you. You will get a **Deprivation of Liberty Safeguards Authorisation** to make sure you are safe.

Or the report might say you are being deprived of your liberty but some changes are needed. For example, changes to the way you are cared for.

Then the **supervisory body** will write to the managing authority to tell them this and ask them to explain this to you. The changes must happen. You will get a Deprivation of Liberty Safeguards Authorisation to make sure you are safe.

Or the report might say you should not be deprived of your liberty.

Then the supervisory body will write to the managing authority to tell them this and ask them to explain this to you. You must not be deprived of your liberty any more, so you will not need a Deprivation of Liberty Safeguards Authorisation.

What will happen if I get Deprivation of Liberty Safeguards authorisation?

Everyone who has a **Deprivation of Liberty Safeguards Authorisation** must have a **representative**. The **supervisory body** will make sure you get a representative.

A representative is a person who does not work with you. They visit you and check you are looked after in a way that means you are safe. Your representative could be a member of your family or a friend.

If you or anyone else is unhappy about you being deprived of your liberty, they can ask for a **review**. A review is a check to make sure that you are being treated in the right way.

You or your representative or your **managing authority** can ask for a review. There will also be a review if your situation changes.

If you or your representative disagree about you being deprived of your liberty, you can ask a special court called the **Court of Protection** to decide whether you should be deprived of your liberty or not.

How to find out more about the Deprivation of Liberty Safeguards

There is a rule book about the Deprivation of Liberty Safeguards called the **Code of Practice**. Everybody caring for you has to follow these rules. The Code of Practice tells you more about the Deprivation of Liberty Safeguards.

You can see it at: www.mentalcapacityact.wales.nhs.uk

How to appeal against being deprived of your liberty under the Deprivation of Liberty Safeguards

If you (or your representative) are reading this because you are deprived of your liberty, you can contact the **Court of Protection** at:

Court of Protection Customer Services, Archway Tower 2, Junction Road, London N19 5SZ
Telephone: **0845 330 2900** (Phone lines are open from 9am–5pm)

Email: customerservices@publicguardian.gsi.gov.uk

If you would like to discuss the Safeguards further or are concerned about the way they have been applied in a care home or hospital, please contact: **Rhondda Cynon Taf and Merthyr Tydfil's DoLS Co-ordinator** RCT Council Offices, Community Services Division, Ty Elai, Dinas Isaf East, Williamstown, Tonypany CF40 1NY Telephone: **01443 425410**

