

Deprivation of Liberty Safeguards (DoLS) Policy & Procedure

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Target Organisation(s)	Worcestershire Acute Hospitals NHS Trust	
Target Departments	Trustwide	
Target staff categories	This Policy applies to all Worcestershire Acute Hospitals NHS Trust (WAHT) staff.	

Policy Overview:

This policy covers the role of Worcestershire Acute Hospitals NHS Trust as a Managing Authority for Deprivation of Liberty Safeguards (DoLS) linked to Article 5 of the Human Rights Act which states that: 'everyone has the right to liberty and security of person. No one shall be deprived of his or her liberty [unless] in accordance with a procedure prescribed in law'.

The Deprivation of Liberty Safeguards is the procedure prescribed in law when it is necessary to deprive of their liberty a patient whom lacks the mental capacity to consent to the arrangements made for their care and treatment in order to keep them safe from harm.

Key Amendments

Date	Amendment	Approved by
27.08.2019	Revision of Policy to include: •Amendment to the Policing & Crime Act effective as of 3rd April 2017 – changes mean that a person who dies in whilst subject to a DoLS order will no longer be considered to have died in state detention thereby removing the automatic requirement for referral to HM Coroner and for HM Coroner to hold an inquest •Updated contact information for Local Authorities other than Worcestershire •Reference to Liberty Protection Safeguards(LPS) which will replace DoLS as of October 2020 •Reference to recent case law - DoLS in Intensive Care Setting - R (Ferreira) v HM Senior Coroner for Inner South London and others (2017)	Safeguarding Committee 27th August 2019 Clinical Governance Group 3rd September 2019
18.08.2020	Extension of Policy until April 2022. The Government announced on 16th July 2020 that the Liberty Protection Safeguards would not be coming into force on 1 October 2020. Revised timeframe,	Safeguarding Committee 25th August 2020

	implementation as of April 2022. Associated Codes of Practice/guidance awaited	
31.01.2022	Document extended, as per the DHSC advice on 16th Dec 2021: 'given the impact of the pandemic on the sectors and professionals who will be called upon to implement these important reforms, along with the unforeseen delay to launching consultation, we recognise that our aim to implement the LPS by April 2022 cannot be met.'	Integrated Safeguarding Committee
12.01.23	Extension of policy until December 2023. There are no changes to the current Policy /procedure. Implementation date for the Liberty Protection Safeguards remains unspecified.	Safeguarding Committee January 2023
23.02.2024	LPS removed as implementation delayed beyond the life of this parliament. Full Policy review and update.	Integrated Safeguarding Committee 26.03.2024 Improving Safety Action Group 07.05.2024
07.06.2024	Flowchart added to Quick Reference Guide as a result of changes to Worcestershire referral process as of 03.06.2024	D Narburgh Head of Safeguarding (Chair, Integrated Safeguarding Committee)

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Quick Reference Guide

Managing Authority = Worcestershire Acute Hospitals NHS Trust

Supervisory Authority = the Local Authority where the person ordinarily is resident

Worcestershire Acute Hospitals NHS Trust (Managing Authority) considerations before applying for DoLS:

Number	Question	If answered "No"	If answered "Yes"
1	Do you believe they lack capacity to consent to their accommodation and care?	No application can be made	Application may be made
2	Is it possible that they will need to be deprived of liberty within 28 days?	Reconsider when reviewing care	Application may be required
3	Is the person 18 years of age or older (or going to turn 18 within 28 days)?	No application can be made	Application can be made
4	Is the person liable to be detained under the Mental Health Act 1983, or subject to conditions of mental health treatment that conflict with the application?	Application may be made	Application cannot be made
5	Will the person be incapacitated or accommodated for more than a few days?	Application should not be made	Application can be made
6	Will it be necessary to care for the person in a way that could deprive them of liberty, immediately?	Apply for standard authorisation now, and...	... grant urgent authorisation

[Deprivation of Liberty Safeguards \(DoLS\) | Worcestershire County Council](#)

Deprivation of Liberty Safeguards (DoLS) Process as of 03.06.2024 – Worcestershire Referrals

Deprivation of Liberty Safeguards identified or suspected



Compete online referral to the Local Authority DoLS Team:

<https://lasportal.worcestershire.gov.uk/web/portal/pages/dolsauth#h1>



You will be asked to set up a new account/log in details when making a referral



ALL DoLS referrals (including other Local Authority areas)

Once referral submitted to Local Authority DoLS Team send an email to the Integrated Safeguarding Team (wah-tr.safeguardingworcsacute@nhs.net) advising DoLS referral submitted along with patient identifiers to include: patient name and NHS number, ward and date DoLS referral made.

Sending the email is *extremely* important as without the email the Trust Safeguarding team have no knowledge of DoLS referrals. DoLS referrals are normally in relation to our most high risk and vulnerable patients whom we are seeking to deprive of their liberty (human rights).



DATIX the DoLS referral as per usual process but remember to tick the “Safeguarding” box within DATIX



You will receive a copy of your referral into your account from the Local Authority DoLS Team in PDF form. **Please download this PDF and send it to the Integrated Safeguarding Team:**

wah-tr.safeguardingworcsacute@nhs.net

[The Integrated Safeguarding Team will ensure a copy of the PDF is uploaded to the patient record.](#)

1. Introduction

The Deprivation of Liberty Safeguards (DoLS) are an amendment to the Mental Capacity Act 2005. They apply in England and Wales only.

The Deprivation of Liberty Safeguards can only be used if the person will be deprived of their liberty in a care home or hospital. In other settings the Court of Protection can authorise a deprivation of liberty.

DoLS in the hospital setting only apply to adults over the age of 18 years whom are deemed to lack the mental capacity to consent to the arrangements made for their care and treatment.

1.1 What is a Deprivation of Liberty?

Article 5 of the Human Rights Act states that 'everyone has the right to liberty and security of person. No one shall be deprived of his or her liberty [unless] in accordance with a procedure prescribed in law'. The Deprivation of Liberty Safeguards (DoLS) is the procedure prescribed in law when it is necessary to deprive of their liberty a resident or patient who lacks capacity to consent to their care and treatment in order to keep them safe from harm.

A Supreme Court judgement in March 2014 ('P v Cheshire West and Chester Council and another') made reference to the 'acid test' to see whether a person is being deprived of their liberty, which consisted of two questions:

• *Is the person subject to continuous supervision and control?*

The European Court of Human Rights (ECtHR) case-law indicates strongly that the requirement for continuous / complete supervision and control cannot and should not be interpreted as requiring 24 hour monitoring and/or that the person is to be physically accompanied over a continuous 24 hour period. In other words, if the individual is subject to such monitoring or such degree of accompaniment, then the necessary degree of continuity or completeness will be satisfied. But it is capable of being satisfied even if the supervision and control is 'lighter touch.' What of 'supervision and control'? The terms are likely in due course to be the subject of further scrutiny by the Courts. However, the ECtHR, is likely to focus primarily on the fact that the arrangements have been made for an individual who lacks the capacity to consent to them. Even if these arrangements are conscientiously considered to be in their best interests, there is in all such situations a power imbalance between those providing the care and treatment and the person to whom it is being provided

and

• *Is the person free to leave? (permanently) – with the focus, the Law Society advises us, being not on whether a person seems to be wanting to leave, but on how those who support them would react if they did want to leave.*

It is vitally important not to conflate "freedom to leave" with "ability to leave" or "attempts to leave." "In this context the focus should be upon the actions (or potential actions) of those around the individual, rather than the individual themselves. In other words, the question may well be a hypothetical one – if the person manifested a desire to leave (or a family member properly interested in their care sought to assist them to leave), what would happen?"

If the 'acid test' above is met, then a DoLS application should be made.

If someone is subject to a high level of supervision, and is not free to leave the premises permanently, then it is almost certain that they are being deprived of their liberty. Each case must be considered on its own merits, but in addition to the two 'acid test' questions, if the following features are present, you must request the completion of assessments for a deprivation of liberty authorisation:

- frequent use of sedation/medication to control behaviour
- regular use of physical restraint to control behaviour
- the person concerned objects verbally or physically to the restriction and/or restraint
 - objections from family and/or friends to the restriction or restraint
 - the person is confined to a particular part of the establishment in which they are being cared for
 - the placement is potentially unstable
 - possible challenge to the restriction and restraint being proposed to the Court of Protection or the Ombudsman, or a letter of complaint or a solicitor's letter
 - the person is already subject to a deprivation of liberty authorisation which is about to expire.

1.2 Restraint and restrictions

The Mental Capacity Act allows restrictions and restraint to be used in a person's care, but only if they are in the **best interests** of a person who lacks capacity to make the decision themselves. Restrictions and restraint **must be proportionate to the harm the care giver is seeking to prevent**, and can include:

- using locks or key pads which stop a person going out or into different areas of a building
- the use of some medication, for example, to calm a person
- close supervision in the home, or the use of isolation
- requiring a person to be supervised when out
- restricting contact with friends, family and acquaintances, including if they could cause the person harm
- physically stopping a person from doing something which could cause them harm
- removing items from a person which could cause them harm
- holding a person so that they can be given care, support or treatment
- bedrails, wheelchair straps, restraints in a vehicle, and splints
- the person having to stay somewhere against their wishes or the wishes of a family member
- repeatedly saying to a person they will be restrained if they persist in a certain behaviour.

Such restrictions or restraint can take away a person's freedom and so deprive them of their liberty. They should be borne in mind when considering whether the support offered to a person is the **least restrictive way** of providing that support.

"Care providers don't have to be experts about what is and is not a Deprivation of Liberty. They just need to know when a person might be deprived of their liberty and take action."

(scie.org.uk)

When care providers are putting together the care plans of persons who are unable to consent to their care, they should consider whether any restrictions or restraint being proposed in the best interests of the person amount to a Deprivation of Liberty.

1.3 How to identify a Deprivation of Liberty

In determining whether Deprivation of Liberty has occurred, or is likely to occur, decision-makers need to consider all the facts in a particular case. There is unlikely to be any simple definition that can be applied in every case, and it is probable that no single factor will, in itself, determine whether the overall set of steps being taken in relation to the relevant person amount to a Deprivation of Liberty.

In general, the decision-maker should always consider the following:

- All the circumstances of each and every case
- What measures are being taken in relation to the individual? When are they required? For what period do they endure?
- What are the effects of any restraints or restrictions on the individual? Why are they necessary? What aim do they seek to meet?
- What are the views of the relevant person, their family or carers? Do any of them object to the measures?
- How are any restraints or restrictions implemented? Do any of the constraints on the individual's personal freedom go beyond 'restraint' or 'restriction' to the extent that they constitute a Deprivation of Liberty?
- Are there any less restrictive options for delivering care or treatment that avoid Deprivation of Liberty altogether?
- Does the cumulative effect of all the restrictions imposed on the person amount to a Deprivation of Liberty, even if individually they would not?

1.4 Practical steps to reduce the risk of Deprivation of Liberty occurring

There are many ways in which the risk of taking steps that amount to a Deprivation of Liberty can be reduced. Minimising the restrictions imposed and ensuring that decisions are taken with the involvement of the relevant person and their family, friends and carers. The processes for staff to follow are:

- Make sure that all decisions are taken (and reviewed) in a structured way and reasons for decisions recorded.
- Follow established good practice for care planning.
- Make a proper assessment of whether the person lacks capacity to decide whether or not to accept the care or treatment proposed, in line with the principles of the Act (see chapter 3 of the main MCA Code for further guidance).
- Before admitting a person to hospital in circumstances that may amount to a Deprivation of Liberty, consider whether the person's needs could be met in a less restrictive way
- Any restrictions placed on the person while in hospital must be kept to the **minimum necessary**, and should be in place for the **shortest possible period**.
- Take proper steps to help the relevant person retain contact with family, friends and carers. Where local advocacy services are available, their involvement should be encouraged to support the person and their family, friends and carers.
- Review the care plan on an ongoing basis. It may well be helpful to include an independent element, possibly via an advocacy service, in the review.

1.5 How is Deprivation of Liberty authorised under DoLS?

The Deprivation of Liberty Safeguards (DoLS) can only apply to people who are in a care home or hospital. This includes where there are plans to move a person to a care home or hospital where they may be deprived of their liberty. The care home or hospital is called the **Managing Authority** in the Deprivation of Liberty Safeguards.

Where a Managing Authority thinks it needs to deprive someone of their liberty they have to ask for this to be authorised by a Supervisory Body. They can do this up to 28 days in advance of when they plan to deprive the person of their liberty.

For care homes and hospitals, the **Supervisory Body is the Local Authority where the person is ordinarily resident.** Usually this will be the Local Authority where the care home is located unless the person is funded by a different Local Authority.

2. Scope of this document

This policy applies to 18+ adults who: -

- Have a mental disorder and lack the mental capacity to consent to arrangements for their care and treatment
- Receive treatment in circumstances that deprive them of their liberty but are necessary to protect them from harm
- Where this appears to be in their best interests
- Where this is the least restrictive option for their care and treatment.

This policy covers the role of Worcestershire Acute Hospitals NHS Trust as a Managing Authority and the staff employed within it. It covers what staff should know, admission, application for authorisation, Urgent Authorisation and review. Further information is available in the Mental Capacity Act 2005 – Code of Practice for Deprivation of Liberty Safeguards and Deprivation of Liberty Safeguards – A guide to hospitals and care homes (both accessible through the trust intranet).

2.1 Exclusions

This policy does not cover anyone under the age of 18 years.
It does not apply to people detained under a section of the Mental Health Act.

2.2 DoLS in Intensive Care Setting

R (Ferreira) v HM Senior Coroner for Inner South London and others (2017)

Maria Ferreira, a woman with Down's syndrome, died in an intensive care unit after she dislodged a tube with her mittened hand. The Court of Appeal concluded Ms Ferreira was not in state detention for three alternative reasons:

- (1) Cheshire West did not apply: Ms Ferreira was not deprived of her liberty because she was being treated for a physical illness and the same treatment would have been administered to a person who did not have her mental impairment.
- (2) If Cheshire West did apply, she was free to leave: there was no evidence to suggest that the hospital would have refused a proper request to remove Maria, and her inability to leave stemmed from her physical illness.
- (3) Unlike MCA s 64(5), the CJA 2009 does not expressly require consideration of Article 5 and ICU is not state detention.

Key information for staff:

[Microsoft Word - Midnight Law Deprivation of Liberty in ICU July 2021.docx \(ficm.ac.uk\)](#)

2.2.1 Stepping Down patients from ITU and the need for DoLS

The need for DoLS should be kept under review by the clinical teams particularly as the level of care is stepped down and a level of restriction and/or restraint is still required as part of the care plan for the person lacking mental capacity in their best interests.

3. Definitions

Mental Capacity Act 2005

Mental Capacity Act (Including DoLS) 2005 The Mental Capacity Act 2005, covering England and Wales, provides a statutory framework for people who lack capacity to make decisions for themselves, or who have capacity and want to make preparations for a time when they may lack capacity in the future.

Deprivation of Liberty

This is a term used in the European Convention on Human Rights about circumstances when a person's freedom is taken away. There is no simple definition of what constitutes a Deprivation of Liberty. The question of whether the steps taken by staff or institutions in relation to a person amount to a deprivation of that person's liberty is ultimately a legal question, The Supreme Court in P v Cheshire West decision defined the 'acid test' to be used to assess if a Deprivation of Liberty is in place

Managing Authority

In this Trust the "Managing Authority" is the Trust Board, but responsibility for DoLS is delegated to Matron, Ward/Unit Manager, Sister/Charge Nurse level.

Supervisory Body

The Supervisory Body will be the Local Authority where the patient is normally resident or which pays the care if they are normally residing in a care or nursing home and are not self-funding.

Best Interest Assessor

The person who carries out the Best Interests Assessment. A professional, not a doctor, with special experience and training.

Mental Health Assessor

The person who carries out the Mental Health Assessment. A doctor with experience in mental health.

Relevant Person

A person who is subject to assessment and authorisation under DoLS.

Representative

The person appointed by the Supervisory Body to support and represent the relevant person.

4. Responsibility and Duties

- **Trust Board** - is the “Managing Authority” but responsibility for DoLS is delegated to Matron, Ward/Unit Manager, Ward Sister/Charge Nurse level. It will ensure that staff have an understanding of the Mental Capacity Act and Deprivation of Liberty Safeguards and have access to advice about Mental Capacity and the Codes of Practice.
- **Matron, Ward/Unit Manager, Ward Sister/Charge Nurse** – will take responsibility for confirming decisions re. potential requests to the DoLS team for Urgent Authorisations, and completing the documentation i.e. ADASS combined request form for each request. They must also take responsibility for liaising, involving and communicating their decisions to the relevant family members or carers. They must document all their actions in the patient’s health records and must inform the Consultant, whose care the patient is under; of the decisions made (the Trust complies with Caldicott Principles and the Data Protection Act in regard to sharing and using patient information as detailed in the General Protocol for Information Sharing – see references). They must be aware of the date of the expiry date of urgent applications and ensure an extension is requested on that date if an assessment by the supervisory authority has not taken place. They are responsible for completing DATIX incident report.
- **Consultant /medical team** –Effective as of 3rd April 2017, the amendment to the Policing and Crime Act 2017 means that a person who dies while subject to a DoLS order will no longer be considered to have died in state detention. In doing so it removes an automatic requirement for referral to the Coroner and for Coroners to hold an inquest. The duty to refer to the Coroner for all other concerns remains unchanged.
- **Other staff members** – all clinical staff need to understand what it means when a patient has a Deprivation of Liberty authorised and the conditions that are covered by the authorisation. They should alert the ward sister/manager if they believe a patient is subject to a Deprivation of Liberty without a DoLS authorisation being made.
- **The Supervisory Body’s Deprivation of Liberty Safeguards Team** – will consist of best interest assessors and mental health assessors, they will be responsible for accepting the Urgent Authorisation paperwork and assessing the patient within 7 days of receipt.
- **Named Nurse Safeguarding Adults** – will ensure that the appropriate Deprivation of Liberty Safeguards notifications are made to the CQC by reconciling the applications recorded on DATIX to the outcome notifications made to the CQC.

5. Policy Detail

5.1 Process to follow

Once a patient is identified as potentially being deprived of their liberty then the ward sister / charge nurse / manager and Matron should be informed immediately in order to ensure any DoLS application is made in a timely manner.

Out of hours the on call Matron should be notified.

A Matron should be involved in any Deprivation of Liberty Safeguard request who will ensure the issue of an Urgent Authorisation, and at the same time ensuring a request is made requesting a Standard Authorisation from the Supervisory Body.

5.2 Action for Managing Authority

For everybody in a hospital who lacks capacity, the following questions should be asked:

- Does the care or treatment being provided take away the person's freedom to do what they want to do, to such an extent that it amounts to a deprivation of their liberty? Do you believe that the care or treatment being provided is in the person's best interests?

If the answer to these questions is 'yes', you need to ask yourself whether the care or treatment could be given in a way which does not deprive the person of their liberty.

If the answer to this question is 'no', and the person cannot be cared for or treated any other way, the Managing Authority must apply to the Supervisory Body for authorisation to continue with the care programme and deprive the person of their liberty. The Supervisory Body will then carry out a series of assessments to decide if it is right to deprive the person of their liberty.

There are two kinds of authorisations: Standard Authorisations and Urgent Authorisations.

Standard Authorisations follow the process outlined above. Managing Authorities should apply for a Standard Authorisation before a Deprivation of Liberty occurs – for example, when a person is awaiting routine admission and the assessment of needs and plan for care will include a Deprivation of Liberty.

Urgent Authorisations can be made by Managing Authorities themselves – such as where a Standard Authorisation has been applied for, but not yet granted, and the need to deprive a person of their liberty is now urgent. **Urgent Authorisations can never be made without a simultaneous application for a Standard Authorisation to the Supervisory Body.**

5.3 Providing support throughout the assessment process - Advocacy

The Managing Authority must tell the Supervisory Body if the person involved has no family member or non-professional carer to support them through the assessment process. The Supervisory Body must then appoint an Independent Mental Capacity Advocate (IMCA), under section 39A of the Act, to support them. (This is often known as a section 39A IMCA.) This may also be necessary where the DoLS request is made to restrict access to family members.

The Supervisory Body and the Managing Authority must work together to make sure the person and their representative:

- understand the MCA DoLS process
- know their rights and entitlements
- receive the right support once the authorisation process begins and after the authorisation has been granted or denied.

5.4 Urgent Authorisation

(please note: when using an Urgent Authorisation, the Managing Authority must also make a request for a Standard Authorisation. The Managing Authority must have a reasonable belief that a standard authorisation would be granted if using an urgent authorisation).

A person may need to be deprived of their liberty before the Supervisory body can respond to a request for a standard authorisation. In these situations, the Managing Authority can use an urgent authorisation. Urgent authorisations are granted by the Managing Authority itself.

The Managing Authority can deprive a person of their liberty for **up to seven days** using an urgent authorisation. **It can only be extended (for up to a further seven days) if the supervisory body agrees to a request made by the managing authority to do this.** Day 1 is the day when the Urgent Authority was signed (irrespective of time).

Before granting an urgent authorisation, the Managing Authority should try to speak to the family, friends and carers of the person. Their knowledge of the person could mean that deprivation of liberty can be avoided. The Managing Authority should make a record of their efforts to consult others.

5.4.1 Urgent Authorisation – extension request

If you put an urgent authorisation in place and this is about to expire before a DoLS authorisation has been completed by the Local Authority, then you may apply once only for the urgent authorisation to be extended for a further 7 days.

Key information for staff:

[Deprivation of Liberty Safeguards \(DoLS\) \(worcsacute.nhs.uk\)](http://worcsacute.nhs.uk)

5.5 How to make a DoLS Application - Worcestershire

Please note that the link takes you to a DoLS online applications landing page via the Login/Register page

Please choose the "New - Apply for a first time DoLS authorisation or an authorisation where the previous one has already expired" form

[Login \(worcestershire.gov.uk\)](http://worcestershire.gov.uk)

** Refer to Quick reference flowchart for Worcestershire at the beginning of this Policy

5.6 Local Authorities other than Worcestershire

Details for other Local Authorities can be found in **Appendix 1** or here:

[Deprivation of Liberty Safeguards \(DoLS\) \(worcsacute.nhs.uk\)](http://worcsacute.nhs.uk)

5.7 Guidance for submitting the form

The Managing Authority must fill out a form requesting a Standard Authorisation. This is sent to the Supervisory Body which has to decide within 21 days whether the person can be deprived of their liberty.

As well as providing basic information about the person you need to provide details of:

- the care and treatment you are providing
- the nature of the restrictions that you think may deprive them of their liberty
- why the care cannot be provided in a way that is less restrictive
- what alternatives have been considered
- what harm the person is likely to come to if the restrictions are not in place

Once you have completed the form you will be sent an automated email stating that the Local Authority have received the application.

In addition, should an authorisation be granted you should be sent a reminder that the DoLS needs to be renewed 28 days prior the DoLS expiring. This will be sent to the email that you provide at registration.

5.8 Standard Authorisation Assessments

The Supervisory Body appoints assessors to see if the conditions are met to allow the person to be deprived of their liberty under the safeguards. They include:

- The person is 18 or over (different safeguards currently apply for children).
- The person is suffering from a mental disorder (recognised by the Mental Health Act).
- The person lacks capacity to decide for themselves about the restrictions which are proposed so they can receive the necessary care and treatment.
- The restrictions would deprive the person of their liberty.
- The proposed restrictions would be in the person's best interests.
- Whether the person should instead be considered for detention under the Mental Health Act.
- There is no valid advance decision to refuse treatment or support that would be overridden by any DoLS process.

- Whether a person who holds Lasting Power of Attorney (LPA) for Health and Welfare agrees with a DoLS authorisation (no refusals)

If any of the conditions above are not met, Deprivation of Liberty cannot be authorised. This may mean that the care home or hospital has to change its care plan so that the person can be supported in a less restrictive way. There may be also be a need to consider asking the Court of Protection to look at the Deprivation of Liberty, supervisory bodies must seek legal advice in these cases.

If all conditions are met, the Supervisory Body must authorise the Deprivation of Liberty and inform the person and Managing Authority in writing. It can be authorised for up to one year.

The person does not have to be deprived of their liberty for the duration of the authorisation. The restrictions should stop as soon as they are no longer required.

5.9 Responsibilities when a DoLS authorisation is granted – Relevant Person’s Representative (RPR)

Not every assessment process will result in an authorisation. However, once a person in a hospital has a DoLS authorisation granted, a relevant person’s representative (RPR) must be appointed to support them and look after their interests.

5.10 Conditions attached to the Standard Authorisation (Granted)

Conditions on the Standard Authorisation can be set by the Supervisory Body. These must be followed by the Managing Authority.

5.11 Extension to a Standard Authorisation

Standard Authorisations cannot be extended. If it is felt that a person still needs to be deprived of their liberty at the end of an authorisation, the Managing Authority must request another Standard Authorisation (or renewal).

5.12 Responsibilities of the Managing Authority

Staff caring for the patient must:

- ensure all care planning includes whether the person has capacity to consent to their care and treatment, including any restrictions and restraints placed on them
- ensure the relevant people involved in the person care are aware of the decision and that records are updated
- ensure any recommendation regarding changes to care practice are carried out
- keep the situation under constant review if the level of restriction/restraint is increased consider again whether or not the circumstances could result in a deprivation of liberty

If DoLS is authorised, you should:

- comply with any conditions attached to an authorisation

- monitor whether the relevant persons representative maintains regular contact – Inform the Supervisory body (Local authority who completed the DoLS authorisation) if you have any concerns
- involve the Representative in any decision which needs to be made about the persons care
- inform the Supervisory body of any change in circumstances where a review of the current authorisation may be required
- before the current authorisation expires, consider whether a further DoLS authorisation will be required; the request for this should be submitted 28 days before expiry date
- keep clear records for governance and inspection
- inform CQC about the authorisation – any DoLS Granted should be sent to the Integrated Safeguarding Team who will inform the regulator:
wah-tr.SafeguardingWorcsacute@nhs.net

5.13 Actions if a request for an authorisation is not granted

If an authorisation request is turned down, the Managing Authority must not deprive the person of their liberty and will need to take alternative steps. The steps will depend on the reason the authorisation was turned down.

- It may be appropriate for the person to be detained under the Mental Health Act 1983.
- If the person is under 18, the Children Act 1989 may be used for meeting their care requirements.
- There may be ways to support the person in a less restrictive manner that avoids a Deprivation of Liberty.
- 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 the Managing Authority wishes to challenge these decisions, it can apply to the Court of Protection.
- If the Deprivation of Liberty is not in the person's best interests, the Managing Authority (together with the commissioner of care) needs to make sure that the person is supported in a way that avoids Deprivation of Liberty.
- If the person has the capacity to make decisions about their own care, the Managing Authority must help them to make their own decisions.
- If the relevant person is not being deprived of liberty, the Managing Authority should continue to support them without taking further action.

5.14 Review of a current DoLS authorisation

A review of a current DoLS authorisation can be applied for where:

1. the person no longer meets one of the requirements e.g. they have regained mental capacity
2. the reason why they meet one of the requirements is different e.g. they are now detained under the Mental Health Act
3. there has been a change in the person's circumstances and the conditions need to be varied e.g. levels of restriction /restraint are increasing

5.15 Cease a DoLS authorisation – Worcestershire

Please note that the link takes you to a DoLS online applications landing page via the Login/Register page. **Choose the "Cease – a DoLS authorisation" form**

[Login \(worcestershire.gov.uk\)](http://worcestershire.gov.uk)

5.16 Further resources / information / DoLS checklist for applications

Further resources and information can be found here:

[Deprivation of Liberty Safeguards \(DoLS\) \(worcsacute.nhs.uk\)](http://worcsacute.nhs.uk)

6. Implementation

6.1 The latest version of this Policy can be found on the Trust intranet site key document and safeguarding pages.

6.2 Dissemination

Staff will be advised of the updated Policy via dissemination by attendees of the Trust Integrated Safeguarding Committee and associated Governance Forums.

6.3 Training and Awareness

This Policy will be available on the Trust intranet key document page and Safeguarding page. Staff groups will be made aware of the Policy via mandatory safeguarding training at the required level appropriate for their job role.

7. Monitoring and Compliance

Page/ Section of Key Document	Key control:	Checks to be carried out to confirm compliance with the Policy:	How often the check will be carried out:	Responsible for carrying out the check:	Results of check reported to: <i>(Responsible for also ensuring actions are developed to address any areas of non-compliance)</i>	Frequency of reporting:
	WHAT?	HOW?	WHEN?	WHO?	WHERE?	WHEN?
CQC notifications and conditions attached	DoLS Granted /not granted outcomes	Sent to generic safeguarding inbox	Upon receipt	Named Nurse Safeguarding Adults /Safeguarding Support Officer	Records kept on Integrated Safeguarding team shared drive	IST Annual Report
Applications made for DoLS by WAHT	Receipt of notifications made to Worcestershire / other areas as received	Sent to generic safeguarding inbox	Upon receipt	Named Nurse Safeguarding Adults /Safeguarding Support Officer	Records kept on Integrated Safeguarding team shared drive	IST Annual Report
Referrals for Advocacy	Monitored via the P&QA sub group of the Worcestershire Safeguarding Adults Board	Need for advocacy is one of the standard assessments	In accordance with P&QA reporting schedule	P&QA on behalf of WSAB	P&QA and reported back to WSAB and agency representatives	In accordance with P&QA reporting schedule

8. Policy Review

This Policy will be reviewed every 3 years in accordance with WAHT Key Document review process or in the event of any significant change to procedure.

9. References

Deprivation of Liberty Safeguards (DoLS) Worcestershire County Council
Mental Capacity Act 2005 Code of Practice Mental Capacity Act Code of Practice - GOV.UK (www.gov.uk)
Deprivation of Liberty Safeguards Code of Practice Mental capacity act 2005: deprivation of liberty safeguards - GOV.UK (www.gov.uk)
Cheshire West & Chester Council v P 39 Essex Chambers
R (Ferreira) v HM Senior Coroner for Inner South London and others 39 Essex Chambers
Human Rights Act 1998
General Data Protection Regulations (2018)
Mental Capacity Act (MCA) - SCIE
Deprivation of Liberty Safeguards (DoLS) at a glance - SCIE

10. Background

10.1 Equality requirements

Refer to Supporting Document 1.

10.2 Financial risk assessment

Refer to Supporting Document 2.

10.3 Contribution List

This key document has been circulated to the following individuals for consultation;

Designation
Integrated Safeguarding Committee representatives
Worcestershire County Council DoLS Team Manager – Caroline Mann

This key document has been circulated to the chair(s) of the following committee's / groups for comments;

Committee
Integrated Safeguarding Committee
Improving Safety Action Group
Quality Governance Committee

10.4 Approval Process

This Policy will be approved via the Integrated Safeguarding Committee and onwards to the Improving Safety Action Group, reporting to the Quality Governance Committee.

10.5 Version Control

Key Amendments

Date	Amendment	Approved by
27.08.2019	Revision of Policy to include: •Amendment to the Policing & Crime Act effective as of 3rd April 2017 – changes mean that a person who dies in whilst subject to a DoLS order will no longer be considered to have died in state detention thereby removing the automatic requirement for referral to HM Coroner and for HM Coroner to hold an inquest •Updated contact information for Local Authorities other than Worcestershire •Reference to Liberty Protection Safeguards(LPS) which will replace DoLS as of October 2020 •Reference to recent case law - DoLS in Intensive Care Setting - R (Ferreira) v HM Senior Coroner for Inner South London and others (2017)	Safeguarding Committee 27th August 2019 Clinical Governance Group 3rd September 2019
18.08.2020	Extension of Policy until April 2022. The Government announced on 16th July 2020 that the Liberty Protection Safeguards would not be coming into force on 1 October 2020. Revised timeframe, implementation as of April 2022. Associated Codes of Practice/guidance awaited	Safeguarding Committee 25th August 2020
31.01.2022	Document extended, as per the DHSC advice on 16th Dec 2021: 'given the impact of the pandemic on the sectors and professionals who will be called upon to implement these important reforms, along with the unforeseen delay to launching	Integrated Safeguarding Committee

	consultation, we recognise that our aim to implement the LPS by April 2022 cannot be met.'	
12.01.23	Extension of policy until December 2023. There are no changes to the current Policy /procedure. Implementation date for the Liberty Protection Safeguards remains unspecified.	Safeguarding Committee January 2023
23.02.2024	LPS removed as implementation delayed beyond the life of this parliament. Full Policy review and update.	Integrated Safeguarding Committee 26.03.2024 Improving Safety Action Group 07.05.2024
07.06.2024	Flowchart added to Quick Reference Guide as a result of changes to Worcestershire referral process as of 03.06.2024	D Narburgh Head of Safeguarding (Chair, Integrated Safeguarding Committee)

Supporting Document 1 – Equality Impact Assessment form



Herefordshire & Worcestershire STP - Equality Impact Assessment (EIA) Form

Please read EIA guidelines when completing this form

Section 1 - Name of Organisation (please tick)

Herefordshire & Worcestershire STP		Herefordshire Council		Herefordshire CCG	
Worcestershire Acute Hospitals NHS Trust	x	Worcestershire County Council		Worcestershire CCGs	
Worcestershire Health and Care NHS Trust		Wye Valley NHS Trust		Other (please state)	

Name of Lead for Activity	Deborah Narburgh – Head of Safeguarding
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Details of individuals completing this assessment	Name	Job title	e-mail contact
	Deborah Narburgh	Head of Safeguarding	deborah.narburgh@nhs.net
Date assessment completed	01.03.2024		

Section 2

Activity being assessed (e.g. policy/procedure, document, service redesign, policy, strategy etc.)	Title: Deprivation of Liberty Safeguards (DoLS) Policy & Procedure		
What is the aim, purpose and/or intended outcomes of this Activity?	<p>This policy covers the role of Worcestershire Acute Hospitals NHS Trust as a Managing Authority for Deprivation of Liberty Safeguards (DoLS) linked to Article 5 of the Human Rights Act which states that: 'everyone has the right to liberty and security of person. No one shall be deprived of his or her liberty [unless] in accordance with a procedure prescribed in law'.</p> <p>The Deprivation of Liberty Safeguards is the procedure prescribed in law when it is necessary to deprive of their liberty a patient whom lacks the mental capacity to consent to the arrangements made for their care and treatment in order to keep them safe from harm.</p>		
Who will be affected by the development & implementation of this activity?	<input checked="" type="checkbox"/> Service User <input checked="" type="checkbox"/> Patient <input checked="" type="checkbox"/> Carers <input type="checkbox"/> Visitors	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	Staff Communities Other _____
Is this:	<input checked="" type="checkbox"/> Review of an existing activity		

	<p>New activity</p> <p>Planning to withdraw or reduce a service, activity or presence?</p>
<p>What information and evidence have you reviewed to help inform this assessment? (Please name sources, eg demographic information for patients / services / staff groups affected, complaints etc.</p>	As detailed within reference list
<p>Summary of engagement or consultation undertaken (e.g. who and how have you engaged with, or why do you believe this is not required)</p>	As detailed within Policy document
<p>Summary of relevant findings</p>	This Policy applies to all Worcestershire Acute Hospitals NHS Trust (WAHT) staff.

Section 3

Please consider the potential impact of this activity (during development & implementation) on each of the equality groups outlined below. **Please tick one or more impact box below for each Equality Group and explain your rationale.** Please note it is possible for the potential impact to be both positive and negative within the same equality group and this should be recorded. Remember to consider the impact on e.g. staff, public, patients, carers etc. in these equality groups.

Equality Group	Potential <u>positive</u> impact	Potential <u>neutral</u> impact	Potential <u>negative</u> impact	Please explain your reasons for any potential positive, neutral or negative impact identified
Age		x		Policy applies to adults 18yrs and above
Disability		x		Policy applies to adults 18yrs and above All staff receive mandatory training for MCA & DoLS at a level in accordance with their job role

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Equality Group	Potential <u>positive</u> impact	Potential <u>neutral</u> impact	Potential <u>negative</u> impact	Please explain your reasons for any potential positive, neutral or negative impact identified
Gender Reassignment		x		Policy applies to adults 18yrs and above
Marriage & Civil Partnerships		x		Policy applies to adults 18yrs and above
Pregnancy & Maternity		x		Policy applies to adults 18yrs and above
Race including Traveling Communities		x		Policy applies to adults 18yrs and above
Religion & Belief		x		Policy applies to adults 18yrs and above
Sex		x		Policy applies to adults 18yrs and above
Sexual Orientation		x		Policy applies to adults 18yrs and above
Other Vulnerable and Disadvantaged Groups (e.g. carers; care leavers; homeless; Social/Economic deprivation, travelling communities etc.)		x		Policy applies to adults 18yrs and above All staff receive mandatory training for MCA & DoLS at a level in accordance with their job role Advocacy service available where required

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Equality Group	Potential <u>positive</u> impact	Potential <u>neutral</u> impact	Potential <u>negative</u> impact	Please explain your reasons for any potential positive, neutral or negative impact identified
Health Inequalities (any preventable, unfair & unjust differences in health status between groups, populations or individuals that arise from the unequal distribution of social, environmental & economic conditions within societies)		X		Policy applies to adults 18yrs and above

Section 4

What actions will you take to mitigate any potential negative impacts?	Risk identified	Actions required to reduce / eliminate negative impact	Who will lead on the action?	Timeframe
How will you monitor these actions?				
When will you review this EIA? (e.g in a service redesign, this EIA should be revisited regularly throughout the design & implementation)				

Section 5 - Please read and agree to the following Equality Statement

1. Equality Statement

1.1. All public bodies have a statutory duty under the Equality Act 2010 to set out arrangements to assess and consult on how their policies and functions impact on the 9 protected characteristics: Age; Disability; Gender Reassignment; Marriage & Civil Partnership; Pregnancy & Maternity; Race; Religion & Belief; Sex; Sexual Orientation

1.2. Our Organisations will challenge discrimination, promote equality, respect human rights, and aims to design and implement services, policies and measures that meet the diverse needs of our service, and population, ensuring that none are placed at a disadvantage over others.

1.3. All staff are expected to deliver services and provide services and care in a manner which respects the individuality of service users, patients, carer’s etc, and as such treat them and members of the workforce respectfully, paying due regard to the 9 protected characteristics.

Signature of person completing EIA	D Narburgh
Date signed	11.01.2023
Comments:	This policy & procedure applies equally to all adults aged 18yrs + who lack mental capacity and are unable to consent to the arrangements made for their care and treatment where it has been deemed to be in their best interests. Any restriction /restraint should be the least restrictive and used for the minimum amount of time possible based upon the risk of harm.
Signature of person the Leader Person for this activity	
Date signed	
Comments:	



Supporting Document 2 – Financial Impact Assessment

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To be completed by the key document author and attached to key document when submitted to the appropriate committee for consideration and approval.

	Title of document:	Yes/No
1.	Does the implementation of this document require any additional Capital resources	No
2.	Does the implementation of this document require additional revenue	No
3.	Does the implementation of this document require additional manpower	No
4.	Does the implementation of this document release any manpower costs through a change in practice	No
5.	Are there additional staff training costs associated with implementing this document which cannot be delivered through current training programmes or allocated training times for staff	No
	Other comments:	N/A

If the response to any of the above is yes, please complete a business case and which is signed by your Finance Manager and Directorate Manager for consideration by the Accountable Director before progressing to the relevant committee for approval

Appendix 1

Local Authorities other than Worcestershire

Local Authority	Telephone number	E mail address
Worcester County Council	01905 822624	DoLS@worcestershire.gov.uk
Birmingham City Council	0121 675 1684	mcadolsadmin@birmingham.gov.uk
Dudley Borough Council	01384 324542	d.dols@nhs.net
Gloucester County Council	01452 426005	dolsservice@gloucestershire.gov.uk
Hereford County Council	01432 383645	<u>DoLS@herefordshire.gov.uk</u>
Shropshire County Council	01743 255850	dols@shropshire.gov.uk
Staffordshire County Council	01785 895665	deprivationofliberty@staffordshire.gov.uk

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Warwickshire County Council	01926 413914	Dols@warwickshire.gov.uk