Deprivation of Liberty Safeguards

What you need to know

What is Deprivation of Liberty?

Some people living in care homes and hospitals can't always make their own decisions because they lack the mental capacity to do so. They need care and protection to ensure they don't suffer harm. Caring for people who need extra protection may mean restricting their freedom to the point of depriving them of their liberty, for example, preventing a person from leaving the care home or hospital to protect their safety.

This means that under The Mental Capacity Act 2005 Deprivation of Liberty Safeguards (MCA DoLS) the person will be cared for in the least restrictive way for their own protection and best interests. For this to be lawful, care homes and hospitals must make applications to the Gwent Deprivation of Liberty Safeguards Team (DoLS Team), for formal assessments to take place to ensure the care provided is in the person's best interests.

The DoLS Team has been commissioned by the five Gwent Local Authorities and Aneurin Bevan Health Board to act independently of these Supervisory Bodies to carry out assessments

When is Deprivation of Liberty used?

Deprivation of Liberty Safeguards are only used where it is absolutely necessary; to prevent risk of harm to someone we care for; in the least restrictive way to ensure they lead their lives with as few restrictions as possible. Care Homes and Hospitals should always consider least restrictive alternatives for the care they provide. Where this is not possible then an application for Deprivation of Liberty Authorisation must be made.

What is the Deprivation of Liberty process?

Care Home/Hospital managers must identify those people at risk of being deprived of their liberty and request Deprivation of Liberty authorisation from the DoLS Team. An assessment is carried out by an Independent Best Interest Assessor and only if all six qualifying requirements are met will an authorisation be approved.

Family members and other people who are important to the person concerned must be consulted when these assessments are being carried out.
An authorisation will only be granted if it is necessary, unavoidable and in the best interests of the individual.

Any deprivation that is authorised by the Supervisory Body will be for as short a time as possible, certainly not more than a year and usually less than this.

A Relevant Person's Representative (RPR) is appointed to ensure the rights of a person being deprived of their liberty are protected. Reviews take place as requested to ensure the authorisation is still necessary.

Who can be a Relevant Person's Representative?

People who may be deprived of their liberty are entitled to have a family member, friend or someone they know to act on their behalf to ensure they are cared for appropriately.

This is called being a Relevant Person's Representative or an RPR for short. In cases where no friend or family member is willing or available, a paid representative can be appointed.

All unpaid Relevant Person's Representatives and people being deprived of their liberty have a statutory right to be supported by a specialist Independent Mental Capacity Advocate (IMCA) and this will be arranged for them if it is required.

Can an authorisation be challenged?

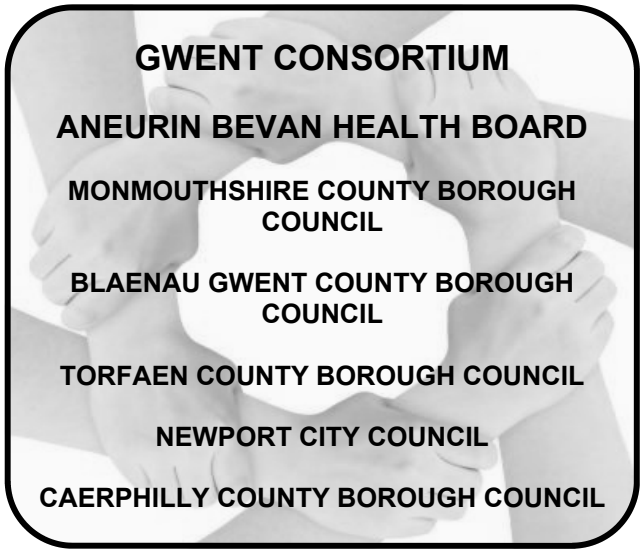
MCA/DoLS authorisation can be challenged in the Court of Protection, but an attempt should be made to resolve any concerns informally with the Supervisory Body first.

Further Information

The following documents may be useful

- Mental Capacity Act 2005 Code of Practice
- MCA DOLS Code of Practice
- Mental Capacity Act 2005 Deprivation of Liberty Safeguards: a guide for family, friends and unpaid carers
- Mental Capacity Act 2005 Deprivation of Liberty Safeguards: a guide for relevant person's representatives
- Making decisions, The Independent Mental Capacity Advocate (IMCA) service

Above documentation available on websites detailed overleaf



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Useful Websites:

www.dh.gov.uk
www.mentalcapacityact.wales.nhs.uk
www.publicguardian.gov.uk