

Adult Social Care and Health Directorate

LD and YP teams only

Deprivation of liberty – Community settings Process

Version	V4
Issue Date:	May 2019
Review Date:	May 2020
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DEPRIVATION OF LIBERTY IN COMMUNITY SETTING DECIDING IF AN AUTHORISATION MAY BE NEEDED

The person:

- Is 16 years and above.
- P is of unsound mind (e.g. mental illness, acquired brain injury, learning disability)
- Lacks capacity to consent to the Accommodation/care and support.
- Is not subject to any powers of the Mental Health Act that would conflict with a DOL Authorization
- Does not have any other valid decision-making authorities (advance decision, Lasting Power of Attorney, Court Appointed Deputy) that would conflict with a DOL authorization

AND

Measures are in place to restrict the person's freedom of movement, e.g.:

- Close observation and supervision, 1:1
- Sedative medication
- Distraction/persuasion to control behaviour and freedom of movement
- Preventing P from leaving the community setting or bringing them back if they try to leave
- Equipment intended to restrict freedom of movement, e.g. bed rails, chairs (tip-back, deep-seated, with fixed tables), lap straps, gloves, splints, bandaging, and helmets
- Locked doors, coded keypads, 'baffle' handles
- Electronic devices – pressure mats, tagging devices
- Physical intervention techniques
- Refusing requests from P to leave the community setting
- Restrictions on social activities or contacts with other people/family
- Restrictions on movement within the community setting
- Restrictions on outings from the community setting

AND

Severity and impact of the restrictions is significant, for example:

- Restrictions are used frequently and/or for prolonged periods of time
- Restrictions are severe & frequent – impact significantly on the person's freedom of movement
- Restrictions have a significant psychological impact on the person, e.g. objecting, distressed
- Relatives/carers object or are concerned that the individual is severely restricted

AND

The restrictions are considered to be in the person's best interests because:

- They are necessary to protect the person from harm
- They are a proportionate response to the likelihood and severity of the potential harm
- Consideration has been given to reducing or eliminating the restrictions-least restrictive

Is it possible to minimize the restrictions to a level at which the person will not be deprived of their liberty

- **Immediately take any necessary action to reduce the restrictions so that the person is not deprived of their liberty**
- **Ensure that any remaining restrictions are monitored closely and kept under review**

- The person does appear to be deprived of their liberty **AND**
- It is not considered to be in their best interests to reduce the restrictions further

A COP application for a DOL authorisation is needed
(Follow below process)

COMMUNITY DOLs Re X APPLICATION PROCESS GUIDANCE CLD & YP TEAMS.

- When a community case is identified as a high priority on a screening tool (available on Knet, filter subject to MCA/DoLS), this should be emailed to the DoLS Lead at CLDTYPcommdols@kent.gov.uk. You can also call to discuss borderline high priority cases on 03000417880.
 - Once the DoLS Lead has confirmed the case as a high priority for court application, all further up-to-date resources to aid the application process will be sent to you, as aspects of the application process can change periodically.
 - The next step is to complete a mental capacity assessment. This should be completed by a registered qualified practitioner on the COP3, which can be found via a search engine.
The practitioner may be a registered:
 - medical practitioner, for example the GP of the person to whom the application relates;
 - psychiatrist
 - approved mental health professional
 - social worker
 - registered social care practitioner
 - psychologist
 - A comprehensive care and support plan is required to aid the mental capacity assessment, detailing the care hours and all the restrictions, controls and levels of supervision for various care needs. The care and support plan should also detail the address or addresses where they are deprived of their liberty (anywhere they stay overnight).
 - A supporting letter from the G.P confirming the client's diagnosis and that he/she is of unsound mind is also required with the application. Send a request to the G.P ASAP as this can delay the process (letter template available on request).
 - Once the Mental Capacity Assessment is completed and client is deemed to lack capacity to make decision regarding their care and accommodation, please schedule the Best Interest Meeting. Invite all relevant people in client's life especially family. If any of them cannot attend, you can seek their views and share these at the meeting. (Check that they are happy with this, they can have a copy of the meeting minutes if they cannot attend). You will need a minute-taker, as the minutes are required for the application. (Best interest Meeting agenda prompt sheet and Best Interest Minutes template available on request or via KNet).
- N.B.** If there are objections or contentious issues at this stage, you may need to make a request for legal advice with the Mental Capacity Assessment and Best Interests Meeting outlining the issues that have been discussed. You can refer to page 31 of the COPDOL11 form to make sure none of the triggers for a full hearing are

applicable. Legal will advise if streamlined process can continue to be followed or whether an application should be made for the case to be heard in court.

- The signed off support plan will need to be discussed / agreed at the Best Interest Meeting outlining support and restrictions and considering any potential less restrictive options and whether these are viable. The final agreed and signed support plan is needed for the application. Best practice is also to submit the provider care plan.
- You will need to identify a Rule 1.2 Representative for the application. This should ideally be family. If no family can take on the role, please inform the DoLS Lead, who will make a referral to seAp to provide a paid representative. The DoLS Lead will need a copy of the care and support plan to accompany the referral along with the contact details for the person to arrange visits with and any risks to the representative. You will also have to make your service manager/budget holder aware of the need for the paid representative as the cost is covered by team budgets.
- The proposed Rule 1.2 Representative will have to complete a COP24 to be filed alongside the application (a factsheet for the family to aid them in deciding if they are willing and able to take on the role is available and a template for what to include in the COP24 is also available on request).
- A quick guide to Community DOLs that may help families understand the purpose and process of Community DOLs authorisation is also available on request.
- Once these steps have been completed, you can complete the COPDOL11 ensuring you have the latest version (obtained on internet search engine). This should be completed within 14 days of the BIM as you will have all information needed for application.
- Completed forms must be sent to the DoLS Lead for Quality Assurance and for agreement to send completed forms to Kent Invicta Law.
- Once agreement given, send a Legal Advice Request form found on KNET requesting “Legal input for a Community Deprivation of Liberty Application under the streamlined re X process”. Please include the DoLS Lead in legal advice requests and any communications with Invicta Law for purpose of tracking progress.