



COMMUNITY DEPRIVATION OF LIBERTY

This leaflet explains when and how the Mental Capacity Act Deprivation of Liberty Safeguards is used for people living in the community.



The Mental Capacity Act Deprivation of Liberty Safeguards (MCA DoLS) came into effect on 1 April 2009. The reason you have been given this leaflet is because someone you care about is considered to be deprived of their liberty.

The safeguards were put in place initially to provide protection for adults at risk who lack the capacity to consent to the care and treatment they need in a care home or hospital. It was also identified that people living in supported living accommodation or at home may also be deprived of their liberty and should be afforded the same level of protection. This is known as a Community Deprivation of Liberty (DoL).

For people who are deprived of their liberty in the community e.g. in their own home or supported living accommodation, the assessment is undertaken by a social worker, and the authorisation is granted by the Court of Protection.

The assessment process ensures that any restrictions placed on the person are done so in their best interests and that they are proportionate to the risk of harm the person may face. The majority of people who require the protection under this process include those with a:

- learning disability
- diagnosis of dementia
- a neurological condition
- brain injury.

For people being deprived of their liberty in care homes and hospitals, there is a separate process and leaflet.

How is it decided if a person is deprived of their liberty

The Supreme Court has defined the criteria for someone being deprived of their liberty:

- They are not free to leave, and
- They are under supervision and control, and
- They also lack capacity to consent to their care and treatment.

If the criteria is met and the person is living in the community, a referral will need to be made to the Adult Social Care Team for appropriate assessments to take place.

The person may receive care and support from their family and friends, or this could be arranged privately or through the council. This could include support for the unpaid carer, care technology, respite care, day centre or travel support.

Some examples of what may indicate the person is being deprived their liberty in the community may include the following, please note this is not an exhaustive list:

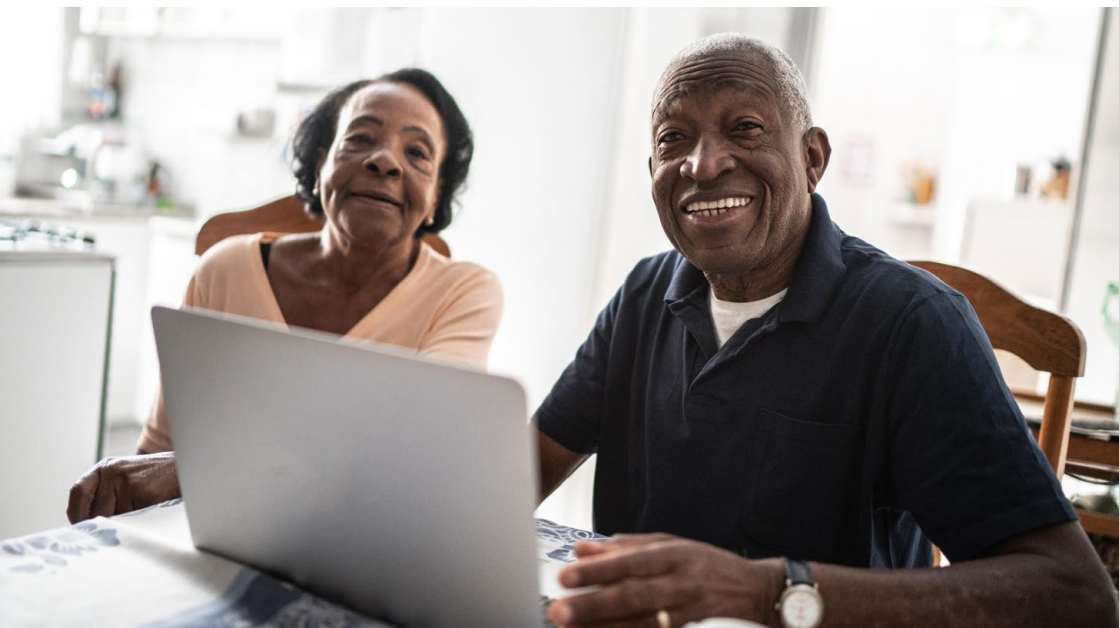
- The front door or exits are kept locked at all times to prevent the person from leaving unaccompanied and they cannot make alternative accommodation arrangements without support.
- They are subject to constant supervision and monitoring, they always have someone with them, for example having 1:1 support, or via care technology such as, video monitoring, door alarm sensors.
- Access to parts of the home where they live are restricted to them.

- They are prescribed certain medications that cause sedation or are aimed at helping to manage their behaviour.
- Medication is having to be administered in a covert / hidden manner via food or drink as agreed with a GP and pharmacist.
- They may have to be physically restrained at times.

As part of the assessment, a social worker will meet the cared for person in the community where they live to discuss their care and treatment, ascertain the person's views and to consider their capacity to consent to these arrangements. The assessor also ensures there is an up-to-date care and support plan and considers whether the restrictions are proportionate to the risk of harm and necessary.

The assessor will contact family or friends, known as 'interested persons', to find out their views and whether they feel the current care and treatment plan is appropriate. A doctor will be asked to confirm that the person has a mental disorder.

Afterwards, the assessor will make an application to the Court of Protection to authorise the arrangements based on the assessments completed.



The role of the representative

There is a separate leaflet which explains the Role of the Representative in more detail.

The social worker will discuss the role the representative with a family member or a friend.

The role of the representative under the community dol process is known as the Rule 1.2 Representative who will:

- Maintain contact with the person;
- Represent the person in matters relating to, or connected with, their deprivation of liberty under the authorisation;
- Support the person in matters relating to or connected with the authorisation.

If a family member or a friend is unable to undertake the role of the representative, an advocate will be appointed to undertake the role of the Rule 1.2 representative role.

In majority of the cases, assessments are taken to court for a decision. However, in some cases, a decision may be made by the court that a face-to-face hearing is needed, this will be discussed with the 'interested persons' if this arises.

Lasting Power of Attorney/ Deputy

If you have been appointed as the Lasting Power of Attorney or Deputy for Health and Welfare decisions, then you can make best interest decisions for the person you care for. However, if the care arrangement amount to a deprivation of person's liberty then a Community DoL authorisation would need to be sought from the Court of Protection.

Concerns regarding the Community DoL Process/ Authorisation

If you have concerns about the process this should be discussed with the social worker allocated to complete this.

Any changes in the person's circumstances impacting on their care and support and potentially the authorisation granted should also be brought to the attention of the social worker.

If you have any queries about the authorisation you may wish to initially discuss these with the relevant social work team or contact the Court of Protection – details are as follows;

The Court of Protection Customer Services

Telephone: **0300 456 4600**

Email: **courtofprotectionenquiries@justice.gov.uk**

Further information



For further information complete our online enquiry form [wandsworth.gov.uk/make-an-adult-social-care-enquiry](https://www.wandsworth.gov.uk/make-an-adult-social-care-enquiry)

Visit our web pages www.wandsworth.gov.uk/adultsocialcare

Our contact details Monday to Friday from 9am to 5pm.

Telephone: **(020) 8871 7707**

SMS Phone: **07860 034722**

Email: adultsocialcare@wandsworth.gov.uk

Write to us at: Wandsworth Council Adult Social Care and Public Health Wandsworth High Street London, SW18 2PU

For information on our Privacy Notice please visit www.wandsworth.gov.uk/privacy

If you have difficulty understanding this publication and you would like this leaflet in a different language, large print or Braille please call: **(020) 8871 7707**