

KENT MCA DOLS SERVICE (Mental Capacity Act Deprivation Of Liberty Safeguards)

Kent County Council, 4th Floor Invicta House, County Road, Maidstone Kent ME14 1XX.

Tel: 03000 415777 | Fax: 03000 422 758 | Email: dols.office@nhs.net

Current Position - June 2018

We continue to screen all Deprivation of Liberty Safeguards (DOLS) requests for authorisation applications on a daily basis using the Association of Directors of Adult Social Services (ADASS) screening tool. See Attached 'Screening Tool 2018 KCC' for detail

We are receiving an average of 436 applications per month and prioritising on average 30% of all applications.

We are very pleased to report a reduction in the time between an application being prioritised and the relevant person being assessed under DOLS.

Making an application for an authorisation

Please ensure you explain the process of applying for a DOLS to any family or friends of the Relevant Person (RP) and give them a copy of this leaflet:

A guide for family, friends and unpaid carers:

http://webarchive.nationalarchives.gov.uk/20130123195754/http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_095895

Non-Priority - Applications

If you do not hear from the MCA DOLS service due to the high volume of applications received, you should continue to act in that person's best interests and involve the person and relevant people, including family and friends, any Deputy or Lasting Power of Attorney, advocates and professionals in the care/treatment arrangements for the person. If the MCA DOLS service does not contact you following your application please inform us via dols.office@kent.gov.uk or 03000 415777 any time when:

1. The relevant person leaves
2. The relevant person dies
3. The relevant person's circumstances change and there are more/less restrictions needed.

This will enable us to either re-screen or withdraw the original application accordingly.

When will we assess the Non-Priority Applications?

There is a new project starting in August which will be dedicated to processing historic applications for DOLS. This will involve the commissioning of a service external to Kent County Council and you will be receiving separate communication about this very soon.

Mental Capacity Act Best Practice: When you receive the authorisation:

- Share it with the Relevant Person (RP).
- Please make sure you read any conditions attached and take any actions required.
- Inform any person with Lasting Power of Attorney (LPA) for Health and Welfare.
- You should ask for copies of LPA paperwork when someone tells you they hold lasting power of attorney for the RP and keep it in their file.
- Make the care records available for the Relevant Person's Representative (RPR) to look at when they visit.
- Do encourage the Relevant Person's Representative (RPR) to have access to the RP's care records when requested and when relevant to RP's deprivation.
- Tell us if the RPR does not visit frequently; 4-6 weeks is considered to be reasonable.

Guide for Relevant Persons Representatives: Deprivation of Liberty Safeguards

https://www.kent.gov.uk/_data/assets/pdf_file/0003/43815/Deprivation-of-Liberty-safeguards-leaflet-a-guide-for-relevant-persons-representatives.pdf

If your application has not already been responded to:

Continue to comply with the Mental Capacity Act:

- **Consider mental capacity on a decision specific and time specific basis:**
Use the link below to access the forms for Complex and Less Complex decisions, please add text after each of the four stage test, to illustrate your reasons for the decision.

For example, if you were considering someone being unable to manage their medication - they forget when they have had their medication, or are not able to tell you what its for just after you have explained, or deny they need it. It is always good to quote the person, such as:

"That medicine is only for ill people, I don't need it"

A person only has to be unable to meet **one** of the four stages to lack capacity.

As a decision is time specific (relevant at the time the decision needs to be made) you need to review decisions regularly.

www.kent.gov.uk/mentalcapacityact

- **Always act in the Person's Best Interests.**
- **Make every attempt to provide care/treatment in the least restrictive way**, as supported by relevant care plans and risk assessments, subject to reviews.
- **Record your decisions and how you came to them. You provide the evidence by using the Complex and Less Complex decision forms.**

<http://www.kent.gov.uk/social-care-and-health/information-for-professionals/mental-capacity-act/mca-forms-and-policies>

It is important to highlight that a **DOLS authorisation does not authorise care and treatment**, therefore a relevant person under a DOLS authorisation should not be cared for differently from someone whose application has not been prioritised and therefore an outcome not issued. All care and treatment decisions must be underpinned at all times by the principles of Mental Capacity Act.

The Law Commission Report

The Government's final response was published on 14 March 2018. It agrees that the current DOLS system should be replaced as a matter of urgency and broadly agrees with the Law Commission's Liberty Protection Safeguards model. The report concludes that legislation will be brought forward when Parliamentary time allows. For further information, and to access the report, please follow the link below:

<http://www.lawcom.gov.uk/project/mental-capacity-and-deprivation-of-liberty/>

General Data Protection Regulations (GDPR)

This was introduced from the 25th May 2018: www.ico.gsi.gov.uk

Please find below a link to our Privacy of Information Notice:

<https://www.kent.gov.uk/about-the-council/contact-us/access-to-information/gdpr-privacy-notice/adult-social-care-and-health/general-notice-to-cover-adult-social-care-and-health>

We would appreciate it if you could share this with the Relevant Person or their representatives at the time of making the urgent/standard requests for DOLS authorisation. The following link is specifically for third parties information:

<https://www.kent.gov.uk/about-the-council/contact-us/access-to-information/gdpr-privacy-notice/adult-social-care-and-health/kent-adult-social-care-and-health-third-parties-privacy-notice>

Making Contact with you

Instead of Egress, the MCA/DOLS office is now using Microsoft Windows 365, when sending personal details by secure email. If you have problems with accessing this, please telephone the DOLS office who will be happy to help you.

Form 3B (a new shorter version of the Form 3) completed by the Best Interests Assessors (BIA)

We have trialled a new shorter version of the Form 3, which we have adapted from an original produced by the Association of Directors of Adult Social Services (ADASS). This is currently used if the BIA is able to assess the Relevant Person (RP) **before** the current authorisation has **expired** and if there has been no significant change in their circumstances. Therefore, it is very important that reapplications are made within 28 days of the end of the current DOLS where possible.

We would welcome your feedback about the new Form 3B or any aspect of the process or our service.

Please find below a link to our feedback form:

https://kentcc-self.achieveservice.com/en/AchieveForms/?form_uri=sandbox-publish://AF-Process-37b3d30f-53b3-4b9d-9910-d68578e83c2e/AF-Stage49a1ac84-dd6f-4ec6-82c9-edd500457f24/definition.json&redirectlink=%2Fen&cancelRedirectLink=%2Fen

For DOLS related information and forms:

<https://www.kent.gov.uk/social-care-and-health/information-for-professionals/mental-capacity-act/deprivation-of-liberty-safeguards>

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