



Deprivation of Liberty Safeguards

A guide for relevant person's representatives
(RPR)

Easy read

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What is a relevant person's representative or RPR?

When a person lacks **mental capacity** to make some decisions for themselves about treatment and care they may be at risk if that treatment or care is not provided.



It is sometimes in their best interests to deprive them of their liberty. A process under the **Mental Capacity Act (MCA)** may lead to a **Deprivation of Liberty Safeguards (DoLS)**.



This is to prevent them from coming to harm. An RPR is someone who will protect that person's interests throughout the process.



Your role as an RPR would be to:

- Maintain contact with the person being deprived of their liberty
- To represent and support them in all matters relating to the MCA DoLS, including, if appropriate, requesting a review, using an organisation's complaints procedure on the person's behalf or making an application to the **Court of Protection**.
- To provide support that is independent of the relevant person's commissioner's e.g. local authority funding and providers e.g. care home or hospital.



Your responsibilities as the RPR

Who can be an RPR?

Often an RPR is a friend or family member who will ensure that the rights of the person being deprived of their liberty is being protected. However, if there is no friend or family member a paid RPR will be appointed.



There are certain guidelines about who can be an RPR these are:

You must be:

- 18 years of age or over
- able to keep in regular contact with the relevant person
- willing to be appointed as the RPR



You must not be:

- financially interested in the hospital or care home where the relevant person is being deprived of their liberty, or be a relative of a person who has financial interest.
- Employed by, or providing services to, the care home in which the relevant person is residing.
- Employed by the hospital in which the relevant person is residing in a role that is, or could be, related to their treatment or care
- Employed to work in the relevant person's supervisory body in a role that is or could be, related to the relevant person's case



If you can always check with the supervisory body if you are unsure if you can act as an RPR.



Acting in the best interests of the person you represent.

The principle of 'best interests' is that anything done to, or on behalf of, someone who lacks capacity to make their own decisions must be in their best interests. As the RPR you would need to make decisions and act on behalf of that person, so you must follow this principle.



The MCA gives guidance of things you need to think about when making a decision in someone's best interests for instance:

- as far as possible, the person must be involved in any decision made on their behalf
- if there is a chance the person may regain capacity and be able to make the decision, ask if the decision can be delayed to allow this?



- the wishes and feelings of the person, including any views they have expressed in the past, should be used to help make any decisions on their behalf now. They may have written things down, told other people what they wanted to happen in similar circumstances

- any beliefs or values they have may influence the decisions made. These could include religious or cultural beliefs or moral views



- if there are any other factors that the person would be likely to consider if they were able to do so, these should be considered to.

- if the decision is about life-sustaining treatment, the decision must not be motivated by a desire to bring about the person's death



In your role as the RPR, you should consult with carers and anyone else who has an interest in the relevant person's welfare to ensure that all decisions are made in their best interests. People who are providing care for the relevant person are obliged to consult with you, as well as with any done of **lasting power of attorney (attorney)** or deputy appointed for the person by the **Court of Protection (deputy)** involved in the case before a decision is made.



Maintaining regular contact

RPRs must have regular face-to-face contact with the person deprived of their liberty, to ensure their interests are being safeguarded. The hospital or care home where the person is (**managing authority**) should allow you to visit them at reasonable times.



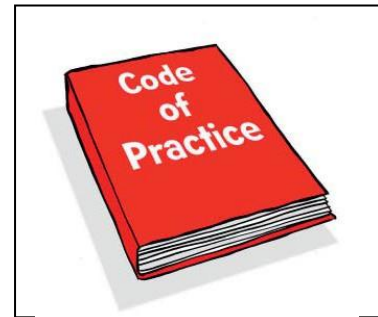
As the RPR your name should be recorded in the person's health and social care records.



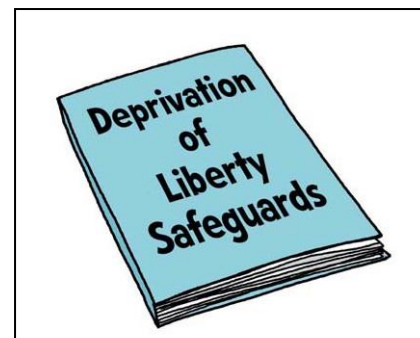
If you do not see the relevant person often enough for any reason, they may not have full opportunities to have their case reviewed or to appeal against their deprivation of liberty to the Court of Protection.



Understanding and Complying with the Mental Capacity Act, Code of Practice and Deprivation of Liberty Safeguards



As an RPR, you have a legal duty to comply with the Mental Capacity Code of Practice and Deprivation of Liberty Safeguarding



An Easy Read Leaflet is available for information about MCA DoLS. Please ask a member of staff or access via the Eastern Cheshire Safeguarding Adults Board via the website at: www.stopadultabuse.org.uk



Mental capacity and Mental Capacity Act 2005 – brief overview

The Mental and Capacity Act also allows a person to plan ahead for a time when they may not be able to make decisions themselves. It clarifies who can make decisions, in which situations, and how they should go about it.

The people who may make the decisions are an RPR, IMCA, Court appointed deputy or someone with a lasting power of attorney



Mental capacity means the level of understanding that someone has. Some people may have had very limited mental capacity from birth, whilst other people may have developed an illness or suffered an injury that affects their understanding.

The Mental Capacity Act 2005 aims to protect people who can't make a decision for themselves.

The Mental and Capacity Act also allows a person to plan ahead for a time when they may not be able to make decisions themselves.

Decision-making and mental capacity

Mental capacity is the ability to make decisions for yourself.

People who cannot do this are said to 'lack capacity'.

This might be due to injury, a learning disability, mental health problem or a condition such as dementia that may affect the way a person's brain makes decisions.

To have capacity a person must be able to:

- understand the information that is relevant to the decision they want to make
- retain the information long enough to be able to make the decision
- weigh up the information available to make the decision
- communicate their decision by any possible means, including talking, using sign language, or through simple muscle movements such as blinking an eye or squeezing a hand.



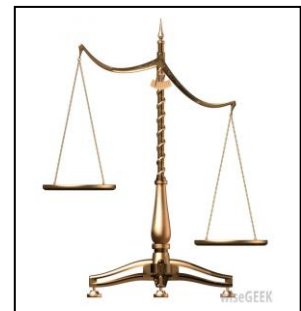
It is important to be aware that the mental capacity of a person with can change over time, both in the short and long term.

As an example, there might be days or even times of the day when they are able to think more clearly than others, so a person may have capacity at some times and lack it at others.



A person may also have the capacity to make some decisions and not others, as some decisions require the person to understand more complex information, or weigh up more options, than others.

You should not assume a person lacks capacity to choose what to wear or eat just because they cannot make difficult financial or medical decisions.



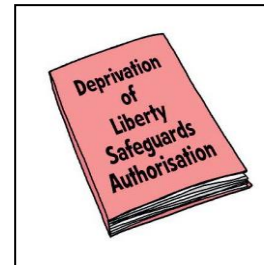
As the RPR you will need to understand the following:

- Who can lawfully be deprived of their liberty under the MCA DoLS?
- How does the assessment process work?

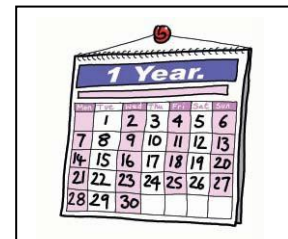


The six assessments

- What happens once a MCA DoLS authorisation is granted?
There are two types of authorisation
 - *Standard authorisation
 - *Urgent authorisation



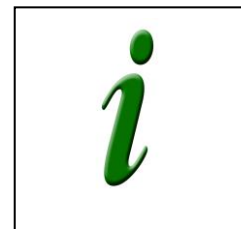
- When should authorisations be reviewed?
- What happens when an authorisation comes to an end?



Your rights as an RPR

Support from the managing authority

Managing and supervisory bodies should keep you informed about sources of support and information available to help you, including how to access the support of an [Independent Mental Capacity Advocate \(IMCA\)](#).



The managing authority (hospital or care home) must make sure that you and the relevant person understand:

- The effect of the authorisation
- The formal complaints procedures that are available to both of you
- Your right to request a review
- Your right to make an application to the
- Court of Protection
- to seek variation or termination of the authorisation
- your right, where the relevant person does not have a paid 'professional' representative, to request the support of an IMCA.



Legal Representation: IMCA

You as the RPR and the relevant person who is being deprived of their liberty have a statutory right to access an IMCA.

It is the responsibility of the supervisory body (Local Authority) to instruct an IMCA if you, or the person deprived of their liberty request one.



The IMCA will support both of you by:

- helping with the review process
- Court of Protection if needed
- Helping you to understand why the relevant person meets the criteria for authorisation
- Helping you to understand how long the authorisation is for
- Helping you to understand any conditions of the authorisation



However, you only have access to an IMCA if you are an unpaid RPR.

An RPR role is very important as you will be representing the relevant person.



You should know what you can and cannot do and the help and advice that is available to you and the relevant person.

NEVER be afraid to ask questions or make a challenge that is your job.

When will your work as an RPR finish?

- When the relevant person's authorisation comes to an end and a new authorisation is not granted
- The relevant person objects to you continuing in the RPR role (providing they have capacity to make this decision)



- An attorney or deputy objects to you continuing as the RPR (providing they have the authority)
- The supervisory body believes you are no longer able or willing to continue
- The supervisory body becomes aware you are not keeping in touch with the relevant person or acting in their best interests.



Before the supervisory body can terminate you as the RPR they must contact you and clarify the circumstances or any issues before decision to terminate your appointment as the RPR.

What happens when there is no RPR available?

If there is no one to represent the relevant person they will be vulnerable until someone is appointed as an RPR as there will be no one to represent their interests or to make any applications for review or challenges.

If there is nobody who can support and represent them independently, the managing authority must notify the supervisory body, who must instruct an IMCA to represent the person until a new representative is appointed.



What the words mean

advocate	An advocate or IMCA supports you and makes sure your wishes and feelings are made clear and taken into account when decisions are made affecting you.
Code of Practice	A rule book about the Deprivation of Liberty Safeguards
Court of Protection	A special court which decides whether or not a person should be deprived of their liberty
deprivation of liberty	Stopping someone from doing the things they want all the time in a hospital or care home
Deprivation of Liberty Safeguards	Rules about giving people the special protection they need in a hospital or care home
Deprivation of Liberty Safeguards Authorisation	A special agreement which says a person can be deprived of their liberty
lacking capacity	When people cannot make a decision for themselves
managing authority	The people who are in charge of the care or treatment of someone who is lacking capacity
Mental Capacity Act	A law about making decisions and what to do when people cannot make some decisions for themselves
Mental Capacity Act 2005 Deprivation of Liberty Safeguards	Rules to make sure that people who are lacking capacity can be cared for or treated in a way that is right and keeps the law

What the words mean

managing authority	The people who are in charge of the care or treatment of someone who is lacking capacity
Mental Capacity Act	A law about making decisions and what to do when people cannot make some decisions for themselves
Mental Capacity Act 2005 Deprivation of Liberty Safeguards	Rules to make sure that people who are lacking capacity can be cared for or treated in a way that is right and keeps the law
Relevant Persons Representative	This could be a family member, friend or advocate. They will visit you regularly to see how you are feeling about your care arrangements and if you are unhappy support you to legally challenge the Deprivation of Liberty Safeguard
review	A check to make sure that a person in a hospital or a care home is being treated in the right way
safeguard	Something that keeps a person safe
supervisory body	The people who decide if someone needs Deprivation of Liberty Safeguards

How to find out more

- **Telephone**



Cheshire East Adult Social Care – 0300 123 5010
East Cheshire NHS Trust - 01625 661768
Age UK Cheshire - 01606 881660
Action on Elder Abuse – 080 8808 8141
Eastern Cheshire Clinical Commissioning Group (CCG) – 01625 663477
South Cheshire Clinical Commissioning Group (CCG) – 01270 275283
The Court of Protection – 0845 330 2900 (lines open – 9am-5pm)
Fax: 020 7664 7551

- **Visit**

<http://www.cheshireeast.gov.uk/care-and-support/assessment/liberty-safeguards-making-an-application.aspx>

<http://www.cheshireeast.gov.uk/care-and-support/assessment/liberty-safeguards.aspx>

<http://ageuk.org.uk>

<Http://healthwatchcheshireeast.co.uk>

<http://elderabuse.org.uk>

<https://www.easterncheshireccg.nhs.uk>



Deprivation of Liberty Safeguards. A Guide for the relevant person's representative. OPG609 www.publicguardian.gov.uk

The Office of the Public Guardian (OPG) supports and promotes decision making for those who lack capacity or for those wanting to plan for their future. www.publicguardian.gov.uk

Tel: 0845 330 2900 Email: customerservices@publicguardian.gsi.gov.uk

Access the Mental Capacity Act 2005 Easy read document

<http://www.local.gov.uk/documents/10180/12137/ntal+Capacity+Act+2005+easy+read+guide/38683f88-4b96-49d6-86ab-89b2404d2e7a>

Mental Capacity Code of Practice and Deprivation of Liberty Safeguarding

www.opsi.gov.uk/ACTS/acts2005/related/ukpgacop_20050009_en.pdf

www.dh.gov.uk/en/publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_085476

IMCA and paid relevant person's representative roles in the Mental Capacity Act Deprivation of Liberty Safeguards. SCIE GUIDE 41 June 2011

www.scie.org.uk

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