Adult Care and Quality Standards

Deprivation of Liberty Safeguards (DoLs)

Operational Procedures

Adult Social Care

Peoples Services

Version Control Table

Version Number	Purpose	Author	Summary of Changes	Implementation Date	Approved By	Last Review Date	Next Review Date
1.0	To support staff to manage the DoLS process in line with the legislation and DoLS code of practice.	Dennis Little	New document		Gillian Nash,	New Document	December 2025

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1. Introduction

1.1. The Deprivation of Liberty Safeguards (DoLS) provide legal protection for vulnerable adults who may be deprived of their liberty within the meaning of Article 5 of the European Convention on Human Rights (ECHR). The Safeguards were introduced on the 1st of April 2009 as an amendment to the Mental Capacity 2005 (MCA). The DoLS only apply in care homes and hospitals to adults aged 18 or over. In short, the DoLS make it lawful for an adult to be deprived of their liberty, based on a standardised assessment and authorisation process as long as the six DoLS requirements are met.

1.2. The six requirements (described in detail in paragraphs 4.23 to 4.76 of the DoLS code of practice) are as follows:

- Age assessment
- No refusals assessment
- Mental capacity assessment
- Mental health assessment
- Eligibility assessment
- Best interests assessment

1.3. Under the DoLS scheme, hospitals and care homes must apply to the local authority where the adult is ordinarily resident for a deprivation of liberty 'authorisation' if they believe they can only provide adequate care for a person in circumstances that amount to a deprivation of their liberty.

1.4. These procedures document the process of how the London Borough of Waltham Forest, in its role as a Supervisory Body, will manage all DoLS requests, assessments and authorisations within the prescribed legal framework.

1.5. It is important to note that these procedures will cover the day-to-day management of DoLS processes but must be read in conjunction with the DoLS code of practice which contains further detail of all DoLS related practice and processes. The DoLS code can be accessed by clicking here. In addition, further information and guidance on DoLS is available on Waltham Forest's TriX system by clicking here.

2. A brief overview of the legal framework

2.1. The legal framework:

- Provides that a person may not be deprived of their liberty in a care home or hospital unless a DoLS Standard Authorisation or an Urgent Authorisation is in force.
- Applies to local authority, independent and voluntary sector care homes, and to anybody being cared for in those environments irrespective of whether they are publicly or privately funded.
- Applies to all hospitals including private hospitals.
- Requires that managing authorities (care homes and hospitals) must request a Standard Authorisation when one is necessary. Wherever possible, this should be in advance of deprivation of liberty commencing. They must also ensure that any conditions attached to a Standard Authorisation are complied with.
- Provides for a Standard Authorisation to be given by the supervisory body if all six DoLS requirements are met.
- Provides that the supervisory body must appoint a 'Relevant Person's Representative' to support and represent the person deprived of their liberty. This could be a relative/ friend or a paid/commissioned RPR.
- Specifies that, if it is necessary to deprive a person of their liberty before a Standard Authorisation can be given, the care home or hospital must grant itself an Urgent Authorisation. This may last for a maximum of seven days only, by which time a Standard Authorisation must be in place. A supervisory body may, however, extend an Urgent Authorisation for a maximum of a further seven days if, **in exceptional circumstances,** if it has not been possible to complete the Standard Authorisation process within the timescale of the original Urgent Authorisation.
- Provides for an exception to the scheme, namely, that the court of protection may authorise the deprivation of a person's liberty in a care home or hospital.

- It is important to understand that, whilst the deprivation of liberty will be for the purpose of providing a person with care and/or treatment, neither a standard nor urgent deprivation of liberty authorisation authorises such care and/or treatment.

- The arrangements for providing care and/or treatment to a person in respect of whom a deprivation of liberty authorisation is given are subject to the wider provisions of the MCA.

3. The DoLS process in Waltham Forest

3.1. Authorisation requests

3.1.1. The DoLS scheme will be managed by the Council's Safeguarding and DoLS team. Care homes and hospitals will make all DoLS Authorisation requests using the appropriate ADASS/DoH Forms. A DoLS Form 1 will be used for new authorisation requests and a DoLS Form 2 for renewal authorisation requests i.e., an authorisation request that is made while the current authorisation is still in force. The provider will complete and email the appropriate Forms by secure email to dols@walthamforest.gov.uk

3.1.2. The Council will use the suite of ADASS/DoH produced DoLS Forms for the day-to-day management of the DoLS scheme and to ensure that the necessary data is captured for the national DoLS return to NHS digital (*see appendix 1 for the full list of ADASS/DoH DoLS Forms*).

3.1.3. On receipt of a DoLS Form 1, an administrator will open the Form as soon as possible. The administrator will then check Mosaic to ensure that the adult is Ordinarily Resident (OR) in the LB of Waltham Forest. If the adult is OR in Waltham Forest, then the process will continue as below. If not, then the care home or hospital will be informed by the administrator about this outcome and further advised to send the Form 1 to the appropriate local authority where the adult is OR. For those who self-fund their placement in Waltham Forest, they will likely be seen as being OR in the borough but if an administrator is any doubt about OR status, they should refer the matter to a practice manager.

3.1.4. Once the administrator is satisfied that the adult is OR in the borough, they will commence an initial triage process which consists of reading through the Form 1 carefully to ensure that it contains the necessary information and is signed and dated. If there is key information missing, the Form will be sent back to the provider for amendment(s). The administrator will then give the DoLS request an initial RAG rating based on the adult's circumstances e.g., if there is evidence of the adult objecting to the placement or hospital stay then it will be given a higher priority rating. The authorisation request will now be added to the internal DoLS team spreadsheet and the appropriate data captured.

3.1.5. The Form 1 will then be sent by the administrator to a DoLS team practice manager for a second triage which is based on the ADASS published guidance about prioritising DoLS referrals for allocation (*please see appendix 2*). This may necessitate that the practice manager contacts the home or hospital to ascertain further information in relation to, for example, the restrictions being applied to the adult, the frequency of any objections and how they are managed, use of covert medication etc. Based on the outcome of this second triage process, the practice manager will decide upon a further RAG rating. In short, the final RAG rating will be determined by a number of factors including:

- if the adult and/or a family member/friend is objecting to the placement or hospital stay
- if the adult is subject to greater restrictions that one might expect in that particular setting or have greater restrictions applied due to challenging behaviours. For example, if someone was on one-to-one support and a higher support ratio when in the community and others aren't or they are given specific medication to manage behaviours
- if the adult is given covert medication.
- if the adult is subject to court proceedings or pending court proceedings
- if the adult or the setting is subject to safeguarding interventions

3.1.6. Once the triage process is complete, the DoLS Authorisation request will be allocated depending on its priority rating (red, amber, green)

and staff availability to undertake the assessment work. If the request cannot be immediately allocated, it will be placed on a waiting list and allocated when possible. Allocations on the waiting list will be periodically checked by a practice manager or administrator for any changes to circumstances that might lead to re-prioritisation or removal from the list if the adult is no longer in that setting.

3.1.7. The process of managing DoLS Form 2 renewal requests, is similar to that for Form 1's but without the need to check OR status and usually without the need to go back to the provider for further information as there is much less information required on a DoLS Form 2. However, if key information is missing, then an administrator will send the Form 2 back to the provider for amendments to be made and for the Form to be re-submitted.

3.1.8. DoLS renewal requests will be triaged mostly as previously highlighted, and a RAG rating given at the end of the process. The case will either then be allocated as highlighted below or put on the waiting list for allocation.

3.1.9. In addition, with regard to DoLS renewal requests, the DoLS spreadsheet is checked to alert administrators to residents whose authorisation will expire within 28 days. These cases are then checked to see if the care home or hospital has submitted a Form 2. If not, an administrator will send out a reminder to the provider to submit a Form 2 as soon as possible but this will not stop the assessment being allocated if necessary while we wait on a Form 2 being submitted. This spreadsheet is checked through fortnightly meetings with administrators and a DoLS practice manager.

3.1.10. Other criteria will also be considered for prioritising renewal requests as follows:

- Cases that are in court proceedings/short term authorisations
- Out of London cases (e.g., Wales, Kent)
- The expiry date of the current authorisation
- Whether it is appropriate to complete the BIA assessment on a shorter DoLS Form 3B.

- if there is a significant change in circumstances that suggest that urgent allocation is required e.g., the person is now objecting or has been subject to a safeguarding enquiry

3.1.11. It is of note that general hospital referrals will usually be given a higher priority for allocation as they often involve patients who are actively trying to leave the ward, patients who are subject to one-to-one supervision for significant parts of the day and/or patients who are actively resisting treatment and trying to remove tubes/cannulas etc. Higher priority will also be given to patients on psychiatric wards who will likely be being cared for in very similar circumstances to those detained on the ward under the Mental Health Act 1983 (as amended 2007).

3.1.12. If a DoLS authorisation is no longer required after a request has been submitted to the local authority e.g., the person has been discharged from the care home or hospital or dies, the request will be closed by an administrator on a DoLS Form 6 and the outcome recorded on the DoLS spreadsheet. The Form 6 will then be sent to a practice manager for sign off. If any assessor has already been allocated, they will be contacted by an administrator as soon as possible and asked to stop their assessment.

3.2. Allocations

3.2.1. Once the decision has been made by a practice manager with administrative input to allocate an assessment, it will be decided by a practice manager and an administrator who to allocate it to. This will be either to an in-house DoLS team Best Interests Assessor (BIA) and a doctor that we have contracted with locally, or the case will be allocated to an external commissioned agency who will be responsible for completing all assessment work i.e., the BIA assessment (DoLS Form 3) and the mental health assessment (DoLS Form 4 which will be completed by a DoLS trained doctor).

3.2.2. An administrator will send the DoLS Form 1 or 2 and any other relevant and necessary documentation to the (in-house) BIA and doctor or the agency. For care homes, the practice is for the doctor to be allocated the assessment first so that they can establish if the person lacks capacity to consent to their care arrangements and is eligible for a DoLS Authorisation. If these requirements are met,

then the case will be allocated to a BIA. This is done to avoid potentially wasting time if a BIA commences the assessment process and later finds out that the person does not lack capacity and/or is not eligible for a DoLS Authorisation. Having said that, there will also be some occasions when a care home referral will be allocated simultaneously to both assessors if there is for example, an objection from the adult, attempts at absconding from the care home or challenging behaviour that suggests a high level of urgency to assess.

3.2.3. For hospital referrals, the case will be allocated to the doctor and the BIA at the same time due to the urgency and time constraints around hospital authorisation requests.

3.2.4. Both BIA's and doctors are expected to complete their assessments to a high standard and in line with the DoLS code and the relevant case law. The BIA must either speak to the doctor or read the Form 4 before completing their Form 3. There is also an expectation that the BIA will attempt to resolve any conflicts between their assessment and the doctor's assessment. If a resolution cannot be found, then the BIA should refer the matter to the DoLS team for further discussion and advice.

3.2.5. If the Form 1 indicates that the adult has no one available to consult with, (this may be further clarified with the provider during the triage process), then an administrator will make a referral to POWhER for a section 39A IMCA as soon as possible. Likewise, if the BIA establishes this during their assessment, they should inform the DoLS office immediately, and an administrator will make a referral to POWhER. This referral is made on DoLS Form 11. If an interpreter is required, an administrator will also organise this through the Language Shop in Newham. This will be done in line with current operational processes.

3.2.6. A referral to POWhER for advocacy support applies to those adults who are in a care home or hospital in the borough. For those outside the borough, an administrator will make a referral to the local advocacy provider for that area.

3.2.7. If an IMCA is appointed under S39A of the MCA, the BIA must consult with the IMCA and include their views in their Form 3 before submitting it to the DoLS team.

3.2.8. Once the BIA, doctor (and 39A IMCA if appropriate) have completed their respective assessments, they will send them to the DoLS office by secure email at the address previously highlighted.

3.3. Authorisations granted

3.3.1. On receipt of a DoLS Form 3 or 4, an administrator will complete an initial check to ensure that the respective Form contains the correct service user's name, date of birth, name of the care home or hospital and that the Form is signed and dated as appropriate. If any of this information is incorrect or missing, an administrator will send the Form back to the assessor for amendment. When the administrator is satisfied that the Forms contain the correct information, they will prepare a Form 5 and send all three Forms to a practice manager for authorisation. If a section 39A IMCA has been involved in the assessment, their report will also be submitted to the authoriser along with Forms 3, 4 and 5.

3.3.2. On receipt of the authorisation paperwork, a practice manager will read the two assessments carefully and scrutinise the Forms 3 and 4 to ensure that they contain the necessary information and evidence that shows that the adult is:

- Being deprived of their liberty within the meaning of article 5 (European Convention on Human Rights) and in line with the Supreme Court judgement in the Cheshire West case i.e., the acid test and the requirements of the Storck vs Germany [2005] case are being met.

- Being deprived of their liberty and this is necessary to prevent harm to them.

- Being deprived of their liberty and the care arrangements/restrictions are a proportionate response to the likelihood of the harm eventuating and it its seriousness.

3.3.3. The practice manager will also scrutinise the 39A IMCA's report if appropriate and ensure that the IMCA's views have been captured by the BIA in the Form 3. If there are any conflicts, missing information or discrepancies in the Forms, they will be sent back to the assessor for amendment. Importantly, scrutiny of the Form 3

also includes considering any conditions recommended by the BIA to attach to the authorisation. This means the authoriser agreeing them where appropriate and overriding them if considered inappropriate.

3.3.4. In addition, the authoriser will consider the BIA's recommendation of a DoLS representative (RPR) against the national criteria and appoint or not appoint based on the criteria while also considering any possible conflict of interests. If the adult has no one appropriate to act as their RPR, the BIA will highlight this on the Form 3. Once the referral is authorised, an administrator will make a referral for a commissioned or paid RPR from an advocacy provider. Like other advocacy services, for adults in the borough the referral will be made to POWhER and for those outside the borough a referral will likely be made to the local advocacy service and the RPR will be commissioned on a spot purchase basis.

3.3.5. This referral is made on a Form 11 and submitted to the Advocacy service provider alongside the Form 3, Form 4 and Form 5. On receipt of this paperwork, the Advocacy service provider should respond promptly with a reference number to say the referral has been accepted. This may at times need to be chased up by the administrators where a delay has occurred.

3.3.6. If a paid RPR is required, the authoriser will also suggest how frequent their visits to the adult should be and this information will be passed by an administrator to the agency providing the paid RPR at the time of referral. If an advocacy provider is not able to take the allocation for whatever reason, the administrator should refer the matter to a DoLS practice manager, and another advocacy service will need to be sought.

3.3.7. If a family member or friend is to be appointed as the adult's RPR, the BIA should offer them the assistance of a 39D IMCA and also consider whether to recommend a 39D IMCA for the adult themselves. This is most useful if it is thought that a s21A challenge in the court of protection might be required as the IMCA can support the family RPR to engage a local solicitor who will then make the necessary application to the court. If a 39D IMCA is required for those residing in the borough, an administrator will make the necessary referral to POWhER. If the adult is in a placement outside the borough, the administrator should discuss this with a practice manager and agree which advocacy provider is best placed to accept the referral.

3.3.8. It is of note that the authoriser will also consider the BIA's recommended length for the DoLS authorisation and have the right to reduce this if they are concerned that the duration is too long based on the adult's individual circumstances.

3.3.9. If a DoLS assessment shows that the adult or a family member is objecting to the placement, this should be highlighted by the authoriser on Form 5 and consideration given as to how this objection will be addressed e.g., a further period of scrutiny and/or taking steps to raise a s21A challenge in the court of protection.

3.3.10. Once the authoriser is happy with the information contained in Forms 3 and 4, they will complete a Form 5 to show that they have scrutinised the assessments and why they agree that the six DoLS requirements are met. The Form 5 will then be signed and dated (including adding the time of the authorisation) and sent to a DoLS administrator.

3.3.11. A DoLS administrator will then record the outcome of the authorisation request and send out the DoLS Forms 3, 4 & 5 to the appropriate parties i.e., the care home or hospital (who should also explain the outcome to the adult), the RPR and any other family members consulted during the assessment process. This paperwork will be sent by secure email or post if it is not possible to send by email.

3.3.12. In addition, an administrator will record the start and end date of the authorisation on Mosaic and upload the DoLS paperwork onto the system.

3.4. DoLS Suspensions

3.4.1. If an adult is subject to an Authorisation but they are then detained under the Mental Health Act 1983 (as amended 2007) or become ineligible for DoLS due to another provision under this Act, the provider will complete a DoLS Form 7 and alert the DoLS team to this development. The DoLS Authorisation can then be suspended for up to 28 days. If within this time period the adult becomes eligible again for DoLS, the suspension will be lifted, and the Authorisation will continue. If the adult remains ineligible for more than 28 days,

then the DoLS will end, and this outcome will be recorded by an administrator.

3.5. Authorisations not granted

3.5.1. If any one of the six DoLS requirements are not met, then the authorisation request cannot be granted. In this instance, a DoLS administrator will partially complete a DoLS Form 6 (authorisation not granted) and send it to a practice manager for scrutiny and sign off.

3.5.2. In short, the authoriser should record which requirement(s) was/were not met and why they agree with this outcome. The Form 6 will then be dated and signed and sent back to an administrator who will then record this outcome and send out the paperwork to the interested parties by secure email or post. An administrator will also record this outcome on Mosaic and upload the DoLS paperwork.

3.6. DoLS reviews

3.6.1. If the DoLS team are contacted by a provider or a social worker/care manager who either requests a DoLS review or describes circumstances that suggest that a review is required, an administrator will send them a DoLS Form 10 and ask that they complete the first two pages and return it to the DoLS team by secure email. If the adult themselves or their RPR contacts the team and again describes changes that suggest that a review is required, a practice manager will consider this as a request for a review and it will be processed as if a Form 10 had been submitted. Under the DoLS code, the local authority can also call a review at any time if it receives information that would suggest that a review is required.

3.6.2. If the DoLS team simply receives a Form 10 from a care provider, a practice manager will consider it and decide which of the requirements if any, need to be re-assessed e.g., it might be that it is thought the adult has regained capacity. The practice manager should record the outcome of what requirements will be re-assessed on page three of the Form 10.

3.6.3. If any of the requirements do require a further assessment, then the case will be allocated to a BIA or in some circumstances a doctor for that requirement or requirements to be assessed and this will be recorded on a Form 3 or Form 4 respectively. Please note that only the requirement(s) that are thought to be no longer met are assessed and the outcome recorded on the Form. There is no need to re-assess the requirements that are not in question and complete the whole Form. Also, if there are changes to any conditions attached to an authorisation, then they can be re-assessed on their own without a fuller review being required.

3.6.4. The outcome of a DoLS review is straightforward in that either the six requirements are still met and so the authorisation remains in place until the end date on the Form 5 or one or more requirements are not met and so the authorisation ends with immediate effect. Both potential outcomes are recorded on a Form 10.

3.6.5. In terms of process, when the Form 3 or 4 is complete, the assessor will send it by secure email to the DoLS in-box. An administrator will then send it along with the Form 10 to a practice manager for scrutiny and sign off. Like authorisations, if the practice manager is not happy with the information contained on the Form, it will be sent back to the assessor for amendment prior to being signed off.

3.7. Termination of a DoLS Authorisation

3.7.1. A DoLS authorisation will terminate when it reaches the end date on the Form 5. For those who will continue to be deprived of their liberty in that setting, the provider should have already sent in a Form 2 (further authorisation request) and the process above followed in relation to a further assessment commencing. When the current DoLS ends, an administrator will close the authorisation on the team spreadsheet.

3.7.2. It is of note that sometimes through the renewal/triage process it is discovered that the adult has in fact been discharged from the care home or hospital or has died, but the DoLS team have not been informed. In this instance, the authorisation will be ended, and this outcome recorded on the DoLS spreadsheet. The DoLS spreadsheet will capture the necessary information for all DoLS

related activity, and this will be used to provide the required information to NHS digital for the annual DoLS return.

Appendix 1: ADASS/DoH DoIs Forms List

Form 1: Request for DoLS Standard Authorisation and Urgent Authorisation

Form 2: Further Standard Authorisation Request

Form 3: Best Interests Assessment (including age, no refusals and mental capacity assessments)

Form 3A: No Deprivation of Liberty – (acid test not met)

Form 3B: DoLS renewal with mental capacity

Form 4: Mental Health Assessment, Mental Capacity, and Eligibility assessments

Form 5: Standard Authorisation granted.

Form 6: Standard Authorisation not granted

Form 7: Suspending or terminating of standard authorisation.

Form 8: Termination of Representative (RPR)

Form 9: Standard Authorisation ceased

Form 10: Review of an existing standard authorisation

Form 11: IMCA and Paid RPR referral

Appendix 2: ADASS TASK FORCE

A Screening tool to prioritise the allocation of requests to authorise a deprivation of liberty.

Due to the vast increase in demand for assessments under the Deprivation of liberty safeguards the ADASS task force members have shared practice in relation to prioritisation and produced this screening tool. The aim of the tool is to assist Councils to respond in a timely manner to those requests which have the highest priority. The tool sets out the criteria most commonly applied which indicates that an urgent response may be needed so as to safeguard the individuals concerned. The use of this tool must be balanced against the legal criteria for the Deprivation of Liberty Safeguards which remains unchanged. **The criteria should be used as an indicative guide only as it will generally be based on information provided by the Managing Authority in the application and each case must be judged on its own facts.**

HIGHER	MEDIUM	LOWER
• Psychiatric or Acute Hospital and not free to leave • Continuous 1:1 care during the day and / or night • Sedation/medication used frequently to control behaviour • Physical restraint used regularly – equipment or persons • Restrictions on family/friend contact (or other Article 8 issue) • Objections from relevant person (verbal or physical) • Objections from family /friends	• Asking to leave but not consistently • Not making any active attempts to leave • Appears to be unsettled some of the time • Restraint or medication used infrequently. • Appears to meet some but not all aspects of the acid test	• Minimal evidence of control and supervision • No specific restraints or restrictions being used. E.g. in a care home not objecting, no additional restrictions in place. • Have been living in the care home for some time (at least a year) • Settled placement in care home/hospital placement, no evidence of objection etc. but may meet the requirements of the acid test.

• Attempts to leave • Confinement to a particular part of the establishment for considerable period of time • New or unstable placement • Possible challenge to Court of Protection, or Complaint • Already subject to DoL about to expire		• End of life situations, intensive care situations which may meet the acid test but there will be no benefit to the person from the Safeguards