

**Deprivation of Liberty Checklist**

Under the Mental Capacity Act there is a duty to understand the mental capacity of young people and whether there is a deprivation of liberty. The legislation requires the Trust to ensure that where there is a deprivation of liberty, that Deprivation of Liberty Safeguards (DOLs) are put in place.

This document is a series of questions to help you understand the current level of confinement and the potential or actual deprivation of liberty that the young person is experiencing. This will allow you to put the correct safeguards (DOLs) in place to restrict their liberty and ensure that these are independently reviewed.

This currently relates to children aged 11 plus. The case law frequently changes and so regard should be given to the latest legal guidance.

***This document should be completed regularly (e.g. as part of placement or other planning meetings) the young persons circumstances and capacity to consent may change over time, as may their legal status.***

***This document should be uploaded onto the file and referred to in the Eclipse Case record as a review of Deprivation of Liberty.***

Please answer the questions from the records and your understanding of the needs of the young person.

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| **Young Person’s Name:** |  |
| **PER Number:** |  |
| **Legal Status:** |  |
| **Age/DOB:** |  |
| **DATE OF REVIEW:** |  |
| **Is there a potential Deprivation of Liberty?** (NB: the three questions (A – C) below are referred to as the legal “limbs” to determine whether there may be a deprivation of liberty). | |
| 1. **Is the person confined? (The confinement questions below will help you make that decision).** | |
| Yes/no – see completed questionnaire | |
| **B1) Is the young person able to give consent to the confinement? (NB – this is a question about their legal capacity to consent – not their legal status).**  **If the young person cannot understand, retain, use and weigh information about their confinement and communicate their decision, they cannot consent to it.**  ***(NB. If the YP has capacity to consent to their confinement but refuses to give consent, they are likely to be DEPRIVED of their liberty).*** | |
| Yes/no – plus explanation | |
| **B2) Who can give consent? (NB – a) this maybe themselves, their parents or carers, otherwise this maybe the Trust.** | |
| Name role/person and give explanation | |
| **C) is the state responsible for the confinement? (This means that a public authority is either directly involved in the care arrangements or ought to know of the deprivation of liberty? Examples will be a child who is resident in a residential unit or foster carers home and they are confined or a social worker visits a child’s home and sees evidence of confinement.** | |
| Yes/no – plus explanation | |

**Confinement Questions:**

These are the questions about the current lived experience of the young person which you need to answer, *compared to another person of the same age or maturity.*

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| 1. **How much greater is the intensity of the supervision, support and restrictions?** |
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| 1. **Can the person go out of the establishment without the carer’s permission?** |
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| 1. **Can they spend nights away?** |
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| 1. **To what extent is the person able to control their own finances?** |
|  |
| 1. **Can the person choose what to wear and buy their own clothes?** |
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| 1. **To what extent do the rules and sanctions differ from non-disabled age appropriate settings?** |
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| 1. **Are their regular private times, where the person has no direct carer supervision?** |
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| 1. **What is the carer to person ratio and how different is this to what would usually be expected of someone of that age who is not disabled?** |
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| 1. **Is physical intervention used? If so, what type? How long for? What effect does it have on the person?** |
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| 1. **Is medication with a sedative used? If so, what type? How often? What is the effect?** |
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| 1. **How structured is the person’s routine compared with someone of the same age and relative maturity who is not disabled?** |
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| 1. **To what extent is contact with the outside world restricted?** |
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*NB: this relates to all children and young people; the age and legal status gives rise to questions of consent.*

**Action to Be Taken When This Form Has Been Completed**:

1. Work through the DOLS flowchart to look at the circumstances and whether this a potential DOLs issue.
2. Consider whether the arrangements for a young person’s care can be revised so that the young person is not confined.
3. Speak to legal services about potential next steps, depending on age this may mean an application to the Family court or to the Court of Protection.
4. Discuss a need for an advocate (NB: this may be needed *regardless* of their level of parental support and involvement).
5. This document must be uploaded onto Eclipse and referred to in the case recording as a review of Deprivation of Liberty