

## **General Information on making an application**

The MCA DOLS make it lawful for a person to be deprived of their liberty, following a rigorous, standardised assessment and authorisation process. Under the MCA DOLS, hospitals and care homes must apply to their PCT or local authority (Supervisory Body's) for a deprivation of liberty 'authorisation' if they believe the person lacks capacity to decide on where they should be treated or cared for, and they can only provide care for a person in circumstances that amount to a deprivation of liberty.

There are two types of authorisation: standard and urgent.

- Standard authorisations will be the most common type of authorisation. Wherever possible, they must be applied for in advance of a person being deprived of liberty and only after rigorous care planning has indicated that less restrictive measures cannot meet the person's needs. The assessment process must be completed within 21 days of the request being received by the supervisory body. Standard authorisations can be issued by supervisory bodies only if the six statutory assessment requirements indicate the need to do so. A standard authorisation can last for up to 12 months, but deprivation of liberty should last only for as long as is necessary. Whenever a standard authorisation is issued the supervisory body must appoint a relevant persons representative.
- Urgent authorisations can be issued by managing authorities where there is a need to deprive someone of their liberty immediately in their own best interests to protect them from harm, and are valid for a maximum of seven calendar days. When issuing an urgent authorisation, managing authorities must, if they have not already done so, simultaneously apply to their DOLS Office for a standard authorisation to be issued within the period of the urgent authorisation. The assessment process must be completed before the managing authority's period of authorisation expires.

### **What does a managing authority need to do?**

For everybody in a hospital or care home who lacks capacity, the following questions should be asked:

- Does the person lack the capacity to consent to being in a hospital or care home to receive care and treatment?
- Did the [check list](#) suggest the person's circumstances amount to a deprivation of liberty? (link to checklist)
- Is the care / treatment in the person's best interest?
- Is the situation likely to remain for more than a few hours / days?

#### **If YES to the above 4 questions**

Can the care / treatment be given in a less restrictive way?

#### **If NO, then an urgent application is required as long as:**

- The person is over 18 years of age, &

- The person is not currently subject to powers under the Mental Health Act '83, &
- It does not conflict with a valid decision by an appointed person / advance decision.