Newcastle Gateshead
Clinical Commissioning Group

Corporate	CCG CO03 Deprivation of Liberty Safeguards (DoL) Policy	
Version Number	**Date Issued**	**Review Date**
V2: Extension	November 2017	April 2018

Prepared By:	Newcastle Gateshead Alliance Safeguarding Adults Team
Consultation Process:	Governance Lead, NHS South of Tyne and Wear Information Governance Advisor, NHS Tees Senior Manager, Corporate Affairs, NHS North of Tyne
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Policy Adopted From:	DOLS Policy (2)
Approval Given By:	Audit Committee

Document History

Version	Date	Significant Changes
1	28/02/2013	
2	20/10/2014	CCG no longer Supervisory Bodies Reporting deaths to the Coroner Implication for the CCG of the 'Cheshire West' case
2 Extension	17/10/2017	Request for interim extension.

Equality Impact Assessment

Date	Issues
23/10/2014 updated V2	Please see Section 9 of this document

POLICY VALIDITY STATEMENT
This policy is due for review on the latest date shown above. After this date, policy and process documents may become invalid.

Policy users should ensure that they are consulting the currently valid version of the documentation.

Contents

Deprivation of Liberty Safeguards (DoL) Policy

"The deprivation of a person's liberty is a very serious matter and should not happen unless it is absolutely necessary, and in the best interests of the person concerned."

Deprivation of Liberty Safeguards: Code of Practice

1. Introduction

The Clinical Commissioning Group (CCG), aspires to the highest standards of corporate behaviour and clinical competence, to ensure that safe, fair and equitable procedures are applied to all organisational transactions, including relationships with patients their carers, public, staff, stakeholders and the use of public resources. In order to provide clear and consistent guidance, the CCG will develop documents to fulfil all statutory, organisational and best practice requirements and support the principles of equal opportunity for all.

Whilst a Deprivation of Liberty may occur in any care setting, the Deprivation of Liberty (DOL) safeguards provide legal protection for vulnerable people over the age of 18, who are or may become, deprived of their liberty in a hospital or care home environment, whether placed under public or private arrangements. Those affected by the DOL safeguards will include people with a "mental disorder", as defined within the Mental Health Act 2007, who lack the capacity to make informed decisions about arrangements for their care or treatment, a risk that the person may be deprived of their liberty must be identified. The DOL safeguards clarify that a person may be deprived of their liberty:

- If they lack the mental capacity to consent to their accommodation and care plans, and;
- it is in their own best interests to protect them from harm, and;
- if it is a proportionate response to the likelihood and seriousness of the harm, and;
- it is the least restrictive way of meeting their needs safely.

On 1st April 2013, Primary Care Trusts ceased to be and as such their role as a Deprivation of Liberty Safeguards: Supervisory Bodies transferred to Local Authorities. As such the CCG's are not Supervisory Bodies and will work closely with providers and the Local Authorities to ensure the protections offer by the safeguards are implemented appropriately. As such the sections of the previous policy relating to performing the duties of a Supervisory Body have been removed or amended.

On 19th March 2014, the Supreme Court published its' judgement in the P v Cheshire West and Chester Council and P & Q v Surrey County Council cases.

This judgement significantly clarified the definition of what constitutes a deprivation of liberty by establishing an 'Acid Test'. In doing so, they have

significantly reduced the threshold and significantly widen the scope of whom may be affected to cover Independent Living Schemes, Adult Placements, Children's Foster Placements and potentially even people at home receiving CHC funded packages of care.

Where a Deprivation of Liberty is identified, either the care plan must be significantly altered to remove restrictions and end the deprivation or authorised obtained via a prescribed legal process. Such authorisation

should be obtained via the Mental Health Act 1983 (MHA), The Deprivation of Liberty Safeguards 2009 (DoLS) or via an application to the Court of Protection (COP). The CCG should be able to seek assurance from providers that they are compliant with the DoLS framework.

The preparation of this document has included an assessment against equality and diversity requirements and Human Rights considerations, to ensure that there is no direct or indirect discrimination against individuals or groups of persons and that no human rights are unlawfully restricted.

1.1 Status

This policy is a corporate policy.

1.2 Purpose and scope

To outline the responsibilities of the CCG in applying the Mental Capacity Act Deprivation of Liberty Safeguards 2009.

2. Definitions

2.1 The following terms are used in this document:

Reference	Abbreviated Term
Advance Decision to refuse treatment	ADRT
Best Interests Assessor	BIA
Court of Protection	CoP
Deprivation of Liberty	DOL
Enduring Power of Attorney	EPA
General Practitioner	GP
Independent Mental Capacity Advocate	IMCA
Lasting Power of Attorney	LPA
Managing Authority (Hospital)	MA
Mental Capacity Act	MCA
Mental Health Act	MHA
Office of the Public Guardian	OPG
Relevant Persons Representative	RPR
Supervisory Body (Local Authority)	SB

2.2 Equality and Diversity Lead

NHS Newcastle North and East CCG	Safeguarding Adults Officer
NHS Newcastle West CCG	Safeguarding Adults Officer
NHS Gateshead CCG	Safeguarding Adults Officer

3. Application Process for DOL

3.1 A 'Managing Authority' i.e. the relevant hospital or care home must seek authorisation from the Supervisory Bodies in order to be able to lawfully deprive someone of their liberty. Where a deprivation of liberty is occurring in a setting outside of a hospital or care home, consideration must be given to the need for authorisation via the Court of Protection.

3.2 DOL safeguards apply to people where DOL is or is likely to be necessary to protect them from harm and appears to be in their best interests. The DOL Safeguards cover those with a permanent dysfunction of the mind or brain such as learning disabilities, mental health problems, dementia, traumatic brain injuries, or a temporary disturbance caused by delirium, drugs and alcohol, or confusion caused by treatment.

3.3 In order to come within the scope of a DOL authorisation, a person must be detained in a hospital or care home, for the purpose of being given care or treatment in circumstances that amount to a DOL. The authorisation **must** relate to the person and the hospital/care home in which they are detained.

3.4 Whilst the DOL may be for the purpose of providing treatment, an authorisation does not itself authorise treatment. Treatment that is proposed may only be given with the person's consent (if they have capacity to make the decision) or in accordance with the Mental Capacity Act 2005.

3.5 The Managing Authority must apply to the Supervisory Body where the person lives, for example, a ward at Newcastle Royal Victoria Infirmary (RVI) with a resident from Gateshead would apply to Gateshead Council as Supervisory Body.

3.6 The responsibilities of Supervisory Bodies are as follows:

- To receive applications from Managing Authorities for standard authorisations.
- To have obtained written assessments of the relevant person in order to ensure that they meet the qualifying requirements.
- To ensure that sufficient skilled assessors are available.
- To withhold authorisation unless all the qualifying requirements are met.

- To specify an authorisation's duration, which may not exceed 12 months.

- To attach conditions to the authorisation if it considers it appropriate to do so.
- To give notice of its decision in writing to the Managing Authority and all those consulted in the process.

- To appoint a Relevant Person's Representative to represent the interests of the Relevant Person for whom they give a standard authorisation for DOL.

3.7 Where the CCG commission care packages outside a care home or hospital,
ie via Continuing Health Care, North East Commissioning Support (NECS), on behalf of the CCG will aim to reduce the risk of DOL to include minimising the restrictions imposed and ensuring decisions are taken with the involvement of all relevant people.

The processes for staff to follow are:

- Ensuring that decisions are taken, reviewed & recorded in a structured way.
- Assessing whether the person lacks capacity to see whether or not to accept the care
- Considering the least restrictive form of care.
- Helping the person retain contact with family/friends/carers/advocacy service support.
- Reviewing the care plan including an independent view e.g. advocacy service.

3.8 In determining whether DOL has occurred or is likely to occur, decision-makers must consider all of the facts. The distinction between a deprivation of, and restriction upon, liberty is merely one of degree or intensity and not one of nature or substance" (HL v UK para.89). In order to provide a clearer definition, Lady Hale in the 'Cheshire West' case, established the 'acid test' for determining if a Deprivation of Liberty is occurring, the test is listed below;

- The person lacks the mental capacity to consent to their accommodation and care AND
- They are under continuous supervision and control AND
- They are not free to leave and live elsewhere AND
- Their deprivation is imputable to the state.

3.9 In determining whether such a deprivation is in the best interests of the Relevant person, the Best Interest Assessor must consider the 'Best Interest Checklist' (Section 4 MCA) and the guidance in Paragraph 4.61 of the Code of Practice, including;

- All of the circumstances in each and every case & the measures taken.
- When they are required & what period do they endure?

- The effects of any restraints/restrictions on the individual? Are they necessary?
- What aim do the restrictions seek to meet?
- What are the views of the relevant person, family or carers? Do any of them object?
- How are any restraints or restrictions implemented?
- Do the constraints go beyond 'restraint'/'restriction' to the extent they constitute a DOL?
- Are there less restrictive options for treatment that would avoid DOL altogether?
- Does the effect of all the restrictions amount to DOL, if individually they don't?
- That practical steps can be taken to reduce the risk of DOL occurring?

3.10 Section 6(4) of the MCA states that someone is using restraint if they use force, or threaten, to make someone do something that they are resisting, or restrict a person's freedom of movement, whether they are resisting. However, where the restriction or restraint is frequent, cumulative and on-going, or if there are other factors present, then care providers should consider whether this has gone beyond permissible restraint. The care providers should then consider:

- An application for authorisation under DOL safeguards or change their care provision to reduce the level of restraint.

The flowchart at Appendix C outlines the process to follow.

3.11 **Process for reporting concerns of an unauthorised DOL.**

3.12 If any CCG employee is concerned, after raising the issue with the Managing Authority that it has not applied for an authorisation, they can ask the Supervisory Body to decide if there is an unauthorised DOL by making a 'third party' request.

3.13 The Supervisory Body does not need to arrange such an assessment where it appears the request is frivolous or vexatious.

3.14 An assessment of whether an unlawful DOL is occurring must be arranged and carried out by the Supervisory Body within seven calendar days of being notified

3.15 **Reviewing the lawfulness of a DOL.**

3.16 The relevant person, or someone acting on their behalf, may make an application to the Court of Protection before a decision has been reached on an application for authorisation to deprive a person of their liberty. This might be to ask the court to declare whether the relevant person has capacity, or whether an act done or proposed to be done in relation to that person is lawful. It is up to the Court of Protection to decide whether or not to consider such an application in advance of the decision on authorisation.

3.17 Where an urgent authorisation has been given, the relevant person or certain persons acting on their behalf, such as a donee or deputy, has the right to apply to the Court of Protection to determine any question relating to the following matters:

- Whether the urgent authorisation should have been given,
- The period for which the urgent authorisation is to be in force, or
- The purpose for which the urgent authorisation has been given.

3.18 Once a standard authorisation has been given, the relevant person or their representative has the right to apply to the Court of Protection to determine any question relating to the following matters:

- Whether the relevant person meets one or more of the qualifying requirements for DOL,
- The period for which the standard authorisation is to be in force,
- The purpose for which the standard authorisation is given, or
- The conditions subject to which the standard authorisation is given.

3.19 The following people have an automatic right of access to the Court of Protection and do not have to obtain permission from the court to make an application:

- A person who lacks, or is alleged to lack, capacity in relation to a specific decision or action. There will usually be a fee for applications to the court.
- Any Attorney for Health and Welfare decisions.
- A deputy who has been appointed by the court to act for the person concerned.
- A person named in an existing court order to which the application relates, and
- The person appointed by the SB as the RPR.

3.20 The court may make an order:

- Varying or terminating a standard or urgent authorisation, or
- Directing the SB (in the case of a standard authorisation) or the MA (in the case of an urgent authorisation) to vary or terminate the authorisation.

4. Implications of the ‘Cheshire West’ ruling for the CCG

4.1 The Supreme Court ruling in the P ‘v’ Cheshire West and Chester Council and P & Q ‘v’ Surrey County Council cases has far reaching implications for the CCG. Although CCGs are no longer Supervisory Bodies, the lowering of the threshold has meant there are significant responsibilities for the CCG to ensure any deprivation occurring outside of a hospital or care home is properly reviewed and where necessary the appropriate actions are taken to negate the deprivation or to authorise it.

4.2 Where a CCG employee, in performing their duties, feels a deprivation of liberty is occurring (See section on ‘acid test’ above) then they need to take account of the setting in which care is being delivered.

4.2.1 If the care is in a hospital or care home setting then the CCG employee should ask the Managing Authority to make an application for authorisation under Deprivation of Liberty Safeguards to the appropriate Supervisory Body.

4.2.2 Where the CCG employee feels the Managing Authority are not acting on their concerns they should contact the Supervisory Body to ask them to consider a ‘third party’ application.

4.3 Where the CCG employee recognises that a potential deprivation of liberty may be occurring in a community setting; such as an Independent living scheme, a person’s own home, an Adult placement or Foster placement, then the following process should be followed:

4.3.1 Review the care package to see if any restrictions could be removed to negate a deprivation.

4.3.2 CCG or NECS staff, such as those responsible for commissioning or reviewing the care package must make and record an assessment of the person’s mental capacity to consent to their care (MCA 1).

4.3.3 Where an individual lacks the mental capacity to consent, then the assessor should apply the ‘Acid Test’ (see above), i.e., is the person subject to continuous supervision and control and not free to leave and live elsewhere?

4.3.4 Is there care ‘Imputable to the state’, i.e., is it arranged and/or funded by a government body such as CCG, NECS or Local Authority. Where packages are joint funded, then discussion should be held with the relevant Supervisory Body about whether an application to the Court of Protection is needed to authorise the deprivation of liberty.

4.3.5 Where the care package is entirely health funded, then legal advice should be sought from the CCG’s legal advisors as to whether an application to the Court of Protection for authorisation is necessary.

4.3.6 Where it is decided that an application needs to be made, the responsible assessing officer or case manager needs to compile evidence for the Court application on advice of the CCG solicitor.

4.4. Where a person subject to a deprivation of liberty authorisation dies, the case manager/reviewing officer must notify the Coroner.

4.4.1 Any Doctor certifying the death of someone subject to a DOL authorisation must also notify the Coroner.

4.5 A less obvious consequence of the 'Cheshire West' ruling is that the number of people detained under the Mental Health Act 1983 will also rise. This has implications for the CCG it terms of the numbers of people entitled to Section 117 aftercare will rise. The impact this has on budgets should be monitored monthly.

4.6 Any unauthorised Deprivations will carry with it a potential risk of litigation. Such a risk should be included on the risk register and an action plan to address the risk reviewed on a monthly basis.

5. Duties and Responsibilities

Practice Boards	The practice boards have delegated responsibility to the governing body (GB) for setting the strategic context in which organisational process documents are developed, and for establishing a scheme of governance for the formal review and approval of such documents.
Accountable Officer	The accountable officer has overall responsibility for the strategic direction and operational management, including ensuring that CCG process documents comply with all legal, statutory and good practice guidance requirements.
Equality and Diversity Lead (NECS)	The equality and diversity lead is responsible for: • Maintaining and reviewing this policy document. • Updating this policy when required • Monitoring the implementation of this policy

All Staff	All staff, including temporary and agency staff, are responsible for: • Compliance with relevant process documents. Failure to comply may result in disciplinary action being taken. • Co-operating with the development and implementation of policies and procedures and as part of their normal duties and responsibilities. • Identifying the need for a change in policy or procedure as a result of becoming aware of changes in practice, changes to statutory requirements, revised professional or clinical standards and local/national directives, and advising their line manager accordingly. • Identifying training needs in respect of policies and procedures and bringing them to the attention of their line manager. • Attending training / awareness sessions when provided.

6. Implementation

6.1 This policy will be available to all staff for use in the circumstances described on the title page.

6.2 All managers are responsible for ensuring that relevant staff within the CCG and NECS have read and understood this document and are competent to carry out their duties in accordance with the procedures described.

7. Training Implications

7.1 The training required to comply with this policy are:

- Policy awareness sessions
- Mandatory training programme
- E-learning
- Bespoke training provided by CCG Safeguarding Adults Team

8. Documentation

8.1 Other related policy documents.

Guidance on Advance Decision to Refuse Treatment (ADRT)

8.2 Legislation and statutory requirements

Cabinet Office (1983) *Mental Health Act 1983*. London. HMSO

Cabinet Office (1998) *Human Rights Act 1998.* London. HMSO.

Cabinet Office (2000) *Freedom of Information Act 2000.* London. HMSO.

Cabinet Office (2005) *Mental Capacity Act 2005*. London. HMSO. Cabinet

Office (2006) *Equality Act 2006.* London. HMSO.

Cabinet Office (2007) *Mental Health Act 2007*. London. HMSO

Department of Health (2007) *Mental Capacity Act 2005: Deprivation of liberty safeguards - Code of Practice to supplement the main Mental Capacity Act 2005 Code of Practice.* London. DH.

Department of Health (2009) *The Mental Capacity Act Deprivation of Liberty Safeguards.* London. DH.

Griffiths, Rachel and Leighton, John (November 2012) Adults' Service SCIE Report 62. Managing the transfer of responsibilities under the Deprivation of Liberty Safeguards: a resource for local authorities and healthcare Commissioners. London: Social Care Institute for Excellence.

Health and Safety Executive (1974) *Health and Safety at Work etc. Act 1974.* London. HMSO.

House of Lords (March 2014) Select Committee on the Mental Capacity Act 2005: Post-legislative scrutiny. London: The Stationery Office

P (by his litigation friend the Official Solicitor) (Appellant) v Cheshire West and Chester Council and another (Respondents) P and Q (by their litigation friend, the Official Solicitor) (appellants) v Surrey County Council (Respondents) [2014] UKSC 19
on appeal from: [2011] EWCA Civ 1257; [2011] EWCA Civ 190

8.3 Best practice recommendations

Department of Health. (2006) *Records Management: NHS Code of Practice.* London: DH.

NHS Litigation Authority. (2008) *Risk Management Standard for Primary Care Trusts.* London: NHSLA.

HM Government (June 2014) Valuing Every Voice, respecting every right: Making the Case for the Mental Capacity Act. The Government's response to the House of Lords Select Committee report on the Mental Capacity Act 2005. Lord Chancellor and Secretary of State for Justice and Secretary of State for Health

Independent Safeguarding Authority (http://www.isa-gov.org.uk/)

Ruck Keene, Alex and Dobson, Catherine (April 2014) Mental Capacity Law: Guidance Note. Deprivation of Liberty in the Hospital Setting. London: 39 Essex Street

Social Care, Local Government and Care partnership (2014). Positive and Proactive Care: Reducing the need for restrictive interventions. London: Department of Health

Social Care Institute for Excellence (August 2014) Adult Services: Report, Deprivation of Liberty Safeguards: putting them into practice. London: www.scie.org.uk

9. Monitoring, Review and Archiving

9.1 Monitoring

The governing body will agree a method for monitoring the dissemination and implementation of this policy. Monitoring information will be recorded in the policy database.

9.2 Review

9.2.1 The governing body will ensure that this policy document is reviewed in accordance with the timescale specified at the time of approval. No policy or procedure will remain operational for a period exceeding three years without a review taking place.

9.2.2 Staff who become aware of any change which may affect a policy should advise their line manager as soon as possible. The governing body will then consider the need to review the policy or procedure outside of the agreed timescale for revision.

9.2.3 For ease of reference for reviewers or approval bodies, changes should be noted in the 'document history' table on the front page of this document.

NB: If the review consists of a change to an appendix or procedure document, approval may be given by the sponsor director and a revised document may be issued. Review to the main body of the policy must always follow the original approval process.

9.3 Archiving

The governing body will ensure that archived copies of superseded policy documents are retained in accordance with Records Management: NHS Code of Practice 2009.

10 Equality Analysis

Equality Analysis Screening Template

Title of Policy:	CCG CO03 Deprivation of Liberty Safeguards Policy
Short description of Policy (e.g. aims and objectives):	The Deprivation of Liberty (DOL) safeguards provide legal protection for vulnerable people over the age of 18, who are or may become, deprived of their liberty in a hospital or care home environment, whether placed under public or private arrangements. Those affected by the DOL safeguards will include people with a "mental disorder", as defined within the Mental Health Act 2007, who lack the capacity to make informed decisions about arrangements for their care or treatment, a risk that the person may be deprived of their liberty must be identified. The DOL safeguards clarify that a person may be deprived of their liberty if they lack the mental capacity to consent to their accommodation and care arrangements and it is: • in their own best interests to protect them from harm • it is a proportionate response to the likelihood and seriousness of the harm, and • there is no less restrictive alternative. This policy outlines the process for authrorising the deprivation of a person's liberty and the responsibilities of the CCG.
Directorate Lead:	
Is this a new or existing policy?	Existing (revised)

Equality Group	**Does this policy have a positive, neutral or negative impact on any of the equality groups?** **Please state which for each group.**
Age	Neutral
Disability	Positive

Gender Reassignment	Neutral
Marriage And Civil Partnership	Neutral
Pregnancy And Maternity	Neutral
Race	Neutral
Religion Or Belief	Neutral
Sex	Neutral
Sexual Orientation	Neutral
Carers	Neutral

Screening Completed By	Job Title and Directorate	Organisation	Date completed
Stephen Down	Safeguarding Adults Officer	Newcastle Gateshead Alliance	21st October 2014

Directors Name	Directors Signature	Organisation	Date
Christophe Piercy		Newcastle Gateshead Alliance	

Managing Authorities – (Care Homes & Hospitals):-

• need to adapt their care planning processes to incorporate consideration of whether a person has capacity to consent to the services which are to be provided and whether their actions are likely to result in a deprivation of liberty.

• must not, except in an urgent situation, deprive a person of liberty unless a standard authorisation has been given by the Supervisory Body.

• requests a standard authorisation and implement the outcomes.

• should obtain from the Supervisory Body in advance of the DOL, except in circumstances considered to be so urgent that the DOL needs to begin immediately. In such cases, authorisation must be obtained within seven calendar days of the start of the DOL.

• must ensure that they comply with any conditions attached to the authorisation.

• should monitor whether the RPR maintains regular contact with the person.

• should only request standard authorisation if it is genuinely necessary for a person to be deprived of liberty in their best interests in order to keep them safe.

Supervisory Bodies – (Local Authorities):-

• will receive applications from Managing Authorities for standard authorisations.

• must have obtained written assessments of the relevant person in order to ensure that they meet the qualifying requirements.

• need to ensure that sufficient skilled assessors are available.

• may not give authorisation unless all the qualifying requirements are met.

• must specify an authorisation's duration, which may not exceed 12 months.

• may attach conditions to the authorisation if it considers it appropriate to do so.

• must give notice of its decision in writing to specified people, and notify others.

• must appoint a Relevant Person's Representative to represent the interests of every person for whom they give a standard authorisation for DOL.

In addition, both MA and SB should be aware of the following key points:

• An authorisation may last for a maximum period of 12 months.

• Anyone engaged in caring for the person, anyone named by them as a person to consult, and anyone with an interest in the person's welfare must be consulted in decision-making.

• Before the current authorisation expires, the Managing Authority may seek a fresh authorisation for up to another 12 months. provided the requirements continue to be met.

• The authorisation should be reviewed, and if appropriate revoked, before it expires if there has been a significant change in the person's circumstances.

• When an authorisation is in force, the relevant person, the RPR and any IMCA representing the individual have a right at any time to request that the Supervisory Body reviews the authorisation.

• A decision to deprive a person of liberty may be challenged by the relevant person, or by the RPR, by an application to the CoP. However, Managing Authorities and Supervisory Bodies should always be prepared to try to resolve disputes locally and informally.

• If the court is asked to decide on a case where there is a question about whether DOL is lawful or should continue to be authorised, the Managing Authority can continue with its current care regime where it is necessary: – for the purpose of giving the person life-sustaining treatment, or – to prevent a serious deterioration in their condition while the court makes its decision.

• Management information should be recorded and retained, and used to measure the effectiveness of the DOL processes. This information will also need to be shared with the inspection bodies.

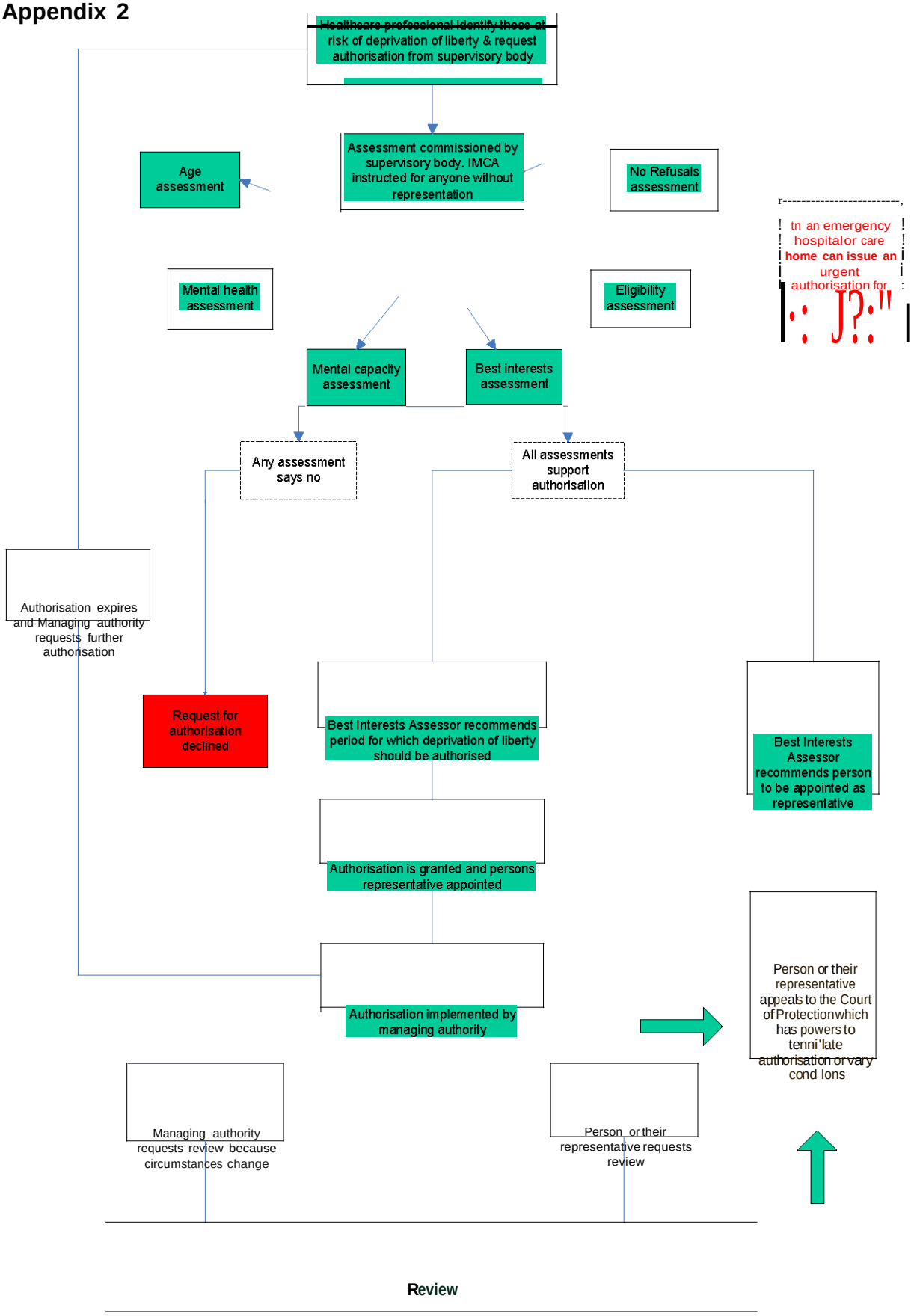
Additional Point for CCG where deprivation occurs outside of the DOL Safeguards

- Where possible gain consent for care packages from the relevant person
- Where there is doubt, assess mental capacity and make a formal record on MCA 1
- Review the package to see if it can be made less restrictive without compromising the safety of the relevant person.
- Hold a Best Interest Meeting to determine if the overall package meets the 'Acid Test' then seek legal advice regarding an application to the Court of Protection or whether there are other legal remedies, ie Mental Health Act 1983 if treatment is for a mental disorder and patient is objecting
- Funding for joint packages for any legal processes should be agreed with the Local Authority
- Fully funded packages of care will require CCG funding for Court Applications.

CCG should seek assurance from providers via Contract Monitoring of the following:

- There is a free standing section covering DoLS in Providers' MCA policy or a separate DoLS policy linked to their MCA policy.
- There is separate DoLS Training.
- Care plans highlight areas of restriction and restraint and show consideration of the DoLS criteria and process.
- Ensure provider staff have access to DoLS forms and are, are trained in completing them and are aware of how to process them.
- DoLS are reflected in audit and internal review programmes.
- Evidence the hospital has developed clear links with the local Supervisory Body DoLS service.
- Providers are aware of their responsibilities to notify CQC of DoLS activity.
- DoLS is considered in reports regarding the care and treatment of vulnerable patients such as those with learning disabilities, dementia, mental illness, stroke and traumatic brain injury.
- Ensure provider staff have access to Codes f practice and are kept up to date with significant caselaw by their own legal advisors.

Appendix 2


Healthcare professional identify those at risk of deprivation of liberty & request authorisation from supervisory body
Assessment commissioned by supervisory body. IMCA instructed for anyone without representation
Age assessment
No Refusals assessment
In an emergency hospital or care home can issue an urgent authorisation for
Mental health assessment
Eligibility assessment
Mental capacity assessment
Best interests assessment
Any assessment says no
All assessments support authorisation
Authorisation expires and Managing authority requests further authorisation
Request for authorisation declined
Best Interests Assessor recommends period for which deprivation of liberty should be authorised
Best Interests Assessor recommends person to be appointed as representative
Authorisation is granted and persons representative appointed
Authorisation implemented by managing authority
Person or their representative appeals to the Court of Protection which has powers to terminate authorisation or vary conditions
Managing authority requests review because circumstances change
Person or their representative requests review
Review