

Prompts for Providers Compliance to Mental Capacity Act 2005



**Safeguarding
Adults**
NORTH EAST LINCOLNSHIRE

Contract: Who is the contract with? The individual receiving services, or someone else? If it is someone else, do they have the correct authority to act on behalf of the person? (see Lasting Powers of Attorneys / Deputies).

For each user of services ensure that there is consideration and a clear record of the person's mental capacity as follows:

Reliance on the presumption of capacity: is the decision the person is making fully informed, made freely / without evidence of coercion, and capacitous?

Has sufficient support been given to help the person make their own decision?

If the person appears to be making an unwise decision, for example, refusing some aspects of their care and support, have the reasons for this been explored? Does the person fully understand the potential consequences of their decision?

If there is reason to doubt reliance on the presumption of capacity:

- Has a relevant capacity assessment been recorded and is this available within the person's records?
- Has a best interest decision been recorded clearly showing why the arrangements are both necessary and proportionate?
- Were all relevant persons consulted? If not, why not?
- Is there an authorised proxy decision maker (Lasting Power of Attorney or Deputy) - is there a copy of the relevant document in the person's records? Does it show the decision maker has the authority to make this decision?
- Does anyone disagree with the decision (including the cared for person)?

Now consider Deprivation of Liberty.

Might the person's care / treatment arrangements amount to a Deprivation of Liberty (DoL)? Consider the acid test.

Is the person: Under continuous supervision and control AND Not free to leave? Yes - could any restrictions be reduced to avoid a DoL?

If no, please turn over.....

Prompts for Providers Deprivation of Liberty (DoL)

Has an application for an authorisation of DoL already been made?

↓
Authorised:

↓
What is the expiry date?

↓
Are there any conditions/
recommendations that require
action?

↓
Not yet authorised:

↓
What is the date of the
application (DoLS) or
questionnaire (DoL)?

↓
Waiting list risk rating:
High / Medium / Low

↓
Is there evidence of any **significant changes** since the dates noted above?

↓
If yes, please explore and report the following:

- Evidence of any objections - is the person asking or attempting to leave, agitated, or withdrawn.
- Are there any concerns or conflicts regarding the arrangements raised by others?
- Evidence of increased restraint / restrictions, including the use of sensor mats etc.?
- Use of medications with a sedative/mood altering effect especially if administered covertly?
- Are there any other changes in the person's presentation that give rise to concern?
- Can you identify any less restrictive ways that the care to this person could be delivered?

If any of the above are present - please record and escalate to the DoLS Team
- via focus.mcadols@nhs.net

For care homes / hospitals: - **if application status is not known** - please contact the DoLS Team. **Telephone: Monday-Friday 11:00-15:00 0300 330 2860**
Outside of those hours via focus.mcadols@nhs.net

For supported living / other placements: - contact the person's named professional or the DoLS Team if the named professional is unknown.



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