

Conditions: practice guidance for Best Interest Assessors (BIAs)

1. Aim of this practice guidance

This practice guidance aims to offer BIAs a checklist for consideration when deciding whether/ how to recommend that a condition is included in an authorisation. It is intended to align with and support legal compliance, champion the rights of those subject to a deprivation of liberty (DoL) and maximise use of resources.

BIAs act as individual professionals and are personally accountable for their decisions. Those appointing them must not dictate or seek to influence their decisionsⁱ. However, BIAs can be subject to challenge where their practice may fall outside of recognised national and local best practice.

This practice guidance is not intended to constrain BIA decision making. However, BIAs are asked to have regard to this practice guidance when making their decisions.

2. What are conditions for?

- To oblige a Managing Authority (MA) to undertake an action which is:
 - within its control/ ability to achieve
 - directly related to the DoL
- To clearly set out:
 - a specific objective (what the condition is intended to achieve/ what the MA must do to meet it)
 - how compliance will be measured (how the MA and those monitoring conditions will know the objective is achieved/ the condition is satisfied)
 - a realistic timeframe within which the objective must be achieved
- In general terms, conditions aim to:
 - reduce the intensity/ severity of a DoL and/ or lessen the impact of restrictions (or perhaps, work towards avoiding the DoL altogetherⁱⁱ)
 - stipulate something that, if not dealt with, would mean that the DoL would cease to be in P's best interestsⁱⁱⁱ.

Conditions should be **SMART** (specific, measureable, achievable, relevant, time-specific).

3. What are conditions not for?

- Anything which does not relate directly to the DoL^{iv}
- Care planning via an 'alternative' route/ a substitute for a properly drafted care plan^v (but see 'the link with recommendations' below)
- Unnecessarily inhibiting MA staff from retaining flexibility to respond appropriately to P's needs^{vi}.

4. Who must comply with them?

- MAs must ensure that conditions are complied with^{vii}. This requirement is in primary legislation (the Mental Capacity Act 2005 (MCA), Schedule A1) and reiterated in the Deprivation of Liberty Safeguards (DoLS) Code of Practice
- Compliance should therefore form a part of the MA's regular care planning/ review considerations.

5. What are the implications of conditions not being complied with?

- Authorisations are subject to compliance with any conditions. MAs have no defence to liability if they do “anything which does not comply with the conditions (if any) included in the authorisation”^{viii}
- Whilst there is no specific sanction in the MCA for lack of compliance with conditions, failure to comply could ultimately be challenged via the Court of Protection^{ix}
- The Ombudsman has taken action against MAs for failure to comply with conditions^x
- CQC has deemed that failure to comply with conditions amounts to a breach of Regulation 13 of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014, and listed failure to comply as reason for an inadequate rating^{xi}.

6. Who is responsible for their oversight?

- Case law confirms that “[T]here is a duty on the supervisory body... to monitor compliance with conditions”^{xii}
- The Business Services Team approaches MAs for updates on conditions compliance, to ensure that such are met, or if not met, that follow up action is taken (see appendix three).

7. What are the responsibilities of P’s Relevant Person’s Representative (RPR)?

- The RPR has “a legal status to protest, should these conditions need to be investigated”^{xiii} and could choose (for example) to trigger a review if they consider conditions are not met
- P’s RPR must represent and support P in all matters relating to their DoL. That means “there is an obligation upon the RPR so far as he/ she is able to ensure that conditions are complied with”^{xiv} but this does not absolve the supervisory body from monitoring compliance^{xv}
- Neither “the statute, or schedule within it, sets out in any way that it is the function of the RPR to monitor compliance and to report back to the supervisory body, because that, in effect, would be putting an agency-type duty on the RPR to act on behalf of the supervisory body, and that is not right; the RPR is to act on behalf of P”^{xvi}.

8. The link with recommendations

Where a matter is not suitable for inclusion as a condition (for example, because it does not relate directly to the DoL), the matter may be reflected in a recommendation instead. For example, recommendations might be used to:

- highlight care management issues/ positively impact the care planning or delivery process
- address apparent omissions, such as by recommending a review of P’s DNACPR notice where the MCA has not been followed (e.g. P’s family have not been consulted about it)^{xvii}
- task other professionals involved in P’s care, such as by suggesting what they should consider when planning P’s care or undertaking their reviews
- task P’s care coordinator with considering compliance with conditions as part of the care planning/ reviews (where conditions are not complied with, P’s care coordinator could (for example) be asked to consider requesting a Part 8 review).

Conditions and recommendations should work together coherently to support P. For example, BIAs identifying issues with P’s care which directly relate to the level of restrictions, can include conditions AND related recommendations. Both should assign responsibility for addressing the identified issues within a realistic timeframe. Some suggestions can be found at appendix one (conditions) and two (recommendations). These must be tailored to P’s circumstances.

9. The link with Part 8 reviews

- A DoLS authorisation is reviewable on a number of grounds including the ‘variation of conditions’ ground. This means that –
 - (a) there has been a change in P’s case, and
 - (b) because of that change, it would be appropriate to vary the conditions to which the standard authorisation is subject^{xxviii}
- As part of the review, BIAs can recommend to the Supervisory Body whether — and, if so, how — it would be appropriate to vary the conditions^{xxix}. Conditions can be amended, existing conditions omitted, or new conditions added^{xxx}
- A variation of conditions does not automatically mean that the best interests requirement should be reconsidered. Whether this is necessary will depend on the significance of the changes in P’s case, having regard to the nature of the change and how long the change is likely to last for^{xxxi}. Whether anyone is contesting the nature of the conditions should also be considered in deciding whether the best interests requirement should be reconsidered^{xxxi}.

10. What is expected of BIAs? A checklist

- a) Ensure your condition is SMART/ sets out what you are hoping to achieve by including a condition. Consider whether conditions are helpful to the MA in supporting P, as well as helpful to P themselves^{xxiii}
- b) Be sure adding a condition is really necessary (they are not mandatory!). Be mindful of the work involved for MAs in implementing a condition, and the work for the Business Services Team in monitoring them
- c) Don’t use ‘standard conditions’ (for example, don’t automatically include a mid-point review, unless such is important for a particular P). Ensure any conditions are relevant to and tailored for P’s specific circumstances (including how they are linked to P’s DoL)
- d) As part of consultation, consider asking P’s RPR, advocate or other representative whether they want to suggest any conditions for the BIA to consider^{xxiv}
- e) Discuss with the MA before including a condition, to check the MA understands what is asked, and that it’s achievable^{xxv}
- f) Ensure that the MA knows where to find the conditions they are expected to comply with^{xxvi}
- g) Allow reasonable time for conditions to be met, and consider including in the condition a requirement that the MA can evidence that they have met it
- h) Select the appropriate box on Form 3 re whether the BIA wishes to be consulted again about any of the conditions.

NB ultimately, it is for the Supervisory Body to decide what conditions (if any) to attach to an authorisation. Signatories must *have regard to* any conditions proposed by the BIA. If a signatory wishes to omit or vary a BIA’s proposed conditions, they should discuss it with the BIA in case doing so affects the conclusions the BIA has reached in the Form 3^{xxvii}.

Appendix One: possible DoLS Conditions

Below are a number of conditions which BIAs MAY wish to consider recommending. The list is NOT intended to:

- be exhaustive
- imply that *all* authorisations must include conditions. Conditions should *only* be included where necessary (bearing in mind the nature and purpose of conditions)
- fetter BIA discretion in designing conditions carefully tailored to P's circumstances. There should be NO blanket use of conditions; rather BIAs are expected to amend or add to the below, as P's situation directs.

Objections

1. When it is clear that P is objecting and wishes (or would wish) an application to be made, and no mitigating actions are likely to be effective, an application should be made immediately. Where such application is anticipated, an authorisation of no more than 3 months may be appropriate to enable preparation of court papers. BIAs should consider attaching the following condition:

The Managing Authority (Care Home Manager) will make a detailed log of any established objections to the placement and/ or care provided (starting from the date of authorisation), detailing the type of objection and any actions taken to attempt to mitigate such objections.

The Managing Authority will then:

- I. Supply the Supervisory Body with a summary of findings from the Objections Log no less than 6 – 8 weeks before expiry of the authorisation and/ or at any DoLS review, whichever is the soonest
 - II. Make the 'Objections Log' available to the Supervisory Body when requested and when any DoLS review and/ or repeat DoLS assessments are carried out by the Supervisory Body's Best Interests Assessors. This includes any assessments or investigations made as part of court proceedings.
2. When there are concerns that P may be objecting and / or it is unclear whether P wishes (or would wish) to make an application, a short authorisation of no more than 6 months should be recommended. This will allow for exploration of whether amendments to P's authorisation can mitigate or remove concerns. BIAs should consider attaching the following conditions (see caveat at 3 below!):

a) Actively scope objections

The Managing Authority (Care Home Manager) will work with the Relevant Person's Representative (RPR) to facilitate a rigorous programme of activity designed to establish the nature of any objection expressed by [] to the placement and/ or care provided and whether and what action could be taken to remove or reduce []'s objection. As a minimum, this programme of activity must include a mid-authorisation review of progress in establishing objections and mitigating actions, on which the Managing Authority must report to the Supervisory Body

b) Involve others in scoping objections

The Managing Authority (Care Home Manager) will notify []'s [case worker/ relevant support worker etc.] of the intended programme of activity in order that they may be involved in consideration of whether and what action could be taken to remove or reduce []'s objection

c) Log objections and mitigating actions

The Managing Authority (Care Home Manager) will make a detailed log of any established objections to the placement and/ or care provided (starting from the date of authorisation),

detailing the type of objection and any actions taken to attempt to mitigate such objections. The Managing Authority will then:

- i. Supply the Supervisory Body with a summary of findings from the Objections Log no less than 6 – 8 weeks before expiry of the authorisation and/ or at any DoLS review, whichever is the soonest
- ii. Make the 'Objections Log' available to the Supervisory Body when requested and when any DoLS review and/ or repeat DoLS assessments are carried out by the Supervisory Body's Best Interests Assessors. This includes any assessments or investigations made as part of court proceedings.

The above three conditions are intended as a suite: to address the need to scope, involve in, and record established objections. Not all three may necessarily be appropriate for all Ps. The suspected nature and extent of P's objections will direct what is/ is not appropriate to include.

Medication

1. Medication without consent (including the covert administration of it) may be aspects of continuous supervision and control which indicate the existence of a DoL. Medication may be particularly relevant to DoL where its effects are controlling or behaviour changing.
2. With a view to ensuring that such medication and/ or its method of administration is in P's best interests, necessary and proportionate in the circumstances, and that no less restrictive option is available, BIAs may wish to consider attaching the following conditions:

Prescribing medication

- a) The Managing Authority (Care Home Manager) will:
 - i. Request a review
Request a review of []'s medication within [] week(s) of the start of the DoLS authorisation and thereafter as directed by the appropriate reviewing professional. As part of the review, the Managing Authority will ask the reviewing professional to:
 - consider whether the prescription of this medication remains necessary and proportionate, or if not what lesser restrictive option may be available, and to confirm their reasoning in writing
 - consider whether the manner of administration of this medication remains necessary and proportionate, or if not what lesser restrictive option may be available, and to confirm their reasoning in writing
 - confirm the appropriate duration of future medication reviews, and record this in the care plan
 - ii. Chase the request for a review
Should the referral not result in a review within a reasonable period, ensure that the referral is made again/ followed up
 - iii. Log efforts to secure a review
Log its efforts to secure a review, and make its log available to the Supervisory Body when requested and when any review and/ or repeat DoLS assessments are carried out by Best Interests Assessors.

Administering medication

The Managing Authority (Care Home Manager) will:

- a) ensure that behaviour changing/ controlling medication administered covertly and/ or PRN (pro re nata – as required) is clearly recorded in []'s care plan, along with the type and dose of medication administered
- b) where there are any significant changes* to []'s medication – including the method of administering it – during the authorisation period, notify the Supervisory Body and the Relevant Person's Representative (RPR).

**What is 'significant' is largely fact specific. Alternate medication, similar in prescription, may not be significant; a change in prescription in strength/dosage, nature and effect will almost certainly be, where this may amount to additional restrictions or interference with autonomy. In the AG case (Re AG [2016] EWCOP 37) the change in medication should have triggered a review; this is because it a) was a stronger form of medication, when compared with that previously administered, b) represented a change to the care plan and c) was a revision to the medication known at the time the authorisation was given. Where Managing Authorities are unable to secure necessary support from the prescriber to help them understand what may be 'significant', help can be accessed via the Medicines Optimisation Specialist Pharmacist (MOCH) team using the following email address: necsu.nelmoch@nhs.net*

NB: the italicised text is intended as guidance for MAs. Medication-related conditions should only be included where the BIA has identified a concern with the prescription or administration of P's medication. They may be onerous for the Managing Authority to comply with and for Business Services to monitor; please think carefully before recommending them.

BIAs are asked to remember that covert medication may take many forms of administration, including via PEG (percutaneous endoscopic gastrostomy), patch, or within food/ drinks.

Unstable placement/ circumstances, or further input required

Where there is some concern about P's placement or care – for example there is some information or consideration outstanding which might impact on best interests considerations - BIAs may wish to consider attaching one or more of the following conditions:

Review during the authorisation period

- a) The Managing Authority (Care Home Manager) will undertake a review of []'s care arrangements within [] weeks of the start of the authorisation. As part of the review the Managing Authority will:
 - ensure all relevant risk assessments, capacity assessments and best interest decisions are up to date and recorded, in all relevant areas of []'s care
 - consider whether the restrictions to which [] is subject remain necessary, proportionate and in their best interests
 - confirm that other conditions are being complied with, and that evidence is available to confirm such compliance
 - [].

The Managing Authority will report the outcome of the review to the Supervisory Body within [] week(s) of undertaking it.

NB reviews should not be attached as a matter of routine, but only where P's circumstances direct. Time frame for review and areas for particular consideration should be tailored to P's situation.

Referral for assessment

- a) The Managing Authority (Care Home Manager) will make a referral to [] for a [] assessment within [] week(s) of the start of []'s DoLS authorisation. Should the referral not receive a response within a reasonable period, the Managing Authority will ensure that the referral is made again/ followed up.

NB ensure it is clearly specified which agency should be referred to for which type of assessment e.g. the CHC team for a continuing healthcare assessment, or P's GP/ mental health services for a mental health assessment. It is important to direct the MA towards the appropriate organisation.

Appendix Two: Possible DoLS Recommendations

Where a matter is unsuitable for inclusion as a condition (for example, because it does not relate directly to the DoL), it may be reflected in a recommendation instead. Recommendations can (say) highlight care management issues/ positively impact the care planning or delivery process, address omissions, or task other professionals involved in P's care. Options for consideration follow below.

Concerns about low mood

Where a BIA is concerned that P's low mood may be an indicator of an objection, they may wish to reflect this specific concern by amending the condition in appendix one headed 'objections'. Where concerns about low mood are less likely to be related to the DoL, BIAs may still be concerned about the impact of P's low mood on their wellbeing, and wish to reflect this in a recommendation.

It is recommended that the Managing Authority (Care Home Manager):

- Monitors and records in the care plan the frequency and duration and of []'s periods of low mood (if any), as well as any identified causes of this (where known)
- Reports the findings from this monitoring to the RPR no less than every []
- If at any time the frequency and duration of the period(s) of low mood represent a significant cause of concern for []'s wellbeing, promptly contacts the relevant primary care or mental health service to discuss whether an assessment or any other medical intervention is required
- Logs its efforts to secure a review/ intervention, and makes its log available – along with records of low mood - to the Supervisory Body when requested, and when any review and/ or repeat DoLS assessments are carried out by Best Interests Assessors and/ or Mental Health Assessors.

NB: these recommendations should only be included where the BIA has identified a concern with low mood. If they are included, ensure that they are tailored to P's circumstances i.e. of the above four bullet points, only include those which apply to P.

Challenging behaviours and/ or agitation

Where a BIA is concerned that P's low mood may be an indicator of an objection, they may wish to reflect this specific concern by amending the condition in appendix one headed 'objections'. Where concerns about low mood are less likely to be related to the DoL, BIAs may still be concerned about the impact of P's challenging behaviour/ agitation on their wellbeing, and wish to reflect this in a recommendation.

It is recommended that the Managing Authority (Care Home Manager):

- Monitors and records in the care plan incidences of []'s challenging behaviour and periods of agitation (if any), as well as any identified causes of this (where known)
- Reports the findings from this monitoring to the RPR no less than every []
- If at any time the frequency and duration of the incidences of challenging behaviour and/ or agitation represent a significant cause of concern for []'s wellbeing, promptly contacts the relevant primary care or mental health service to discuss whether:
 - an assessment or any other medical intervention is required
 - a behavioural support plan should be developed to reduce challenging behaviours/ periods of agitation
- Logs its efforts to secure a review/ intervention, and makes its log available – along with records of challenging behaviour/ agitation - to the Supervisory Body when requested, and when any review and/ or repeat DoLS assessments are carried out by Best Interests Assessors and/ or Mental Health Assessors.

NB: these recommendations should only be included where the BIA has identified a concern with challenging behaviour/ agitation. If they are included, ensure that they are tailored to P's circumstances i.e. of the above four bullet points, only include those which apply to P.

Nutrition and hydration

It is recommended that the Managing Authority (Care Home Manager):

- Monitors and records in the care plan the frequency and quantity of []'s nutritional and fluid intake to aid investigations into their health
- Weighs [] on a [] basis and records the findings in the care plan, to promote oversight of weight [loss/ gain] (delete as appropriate)
- Reports the findings from this monitoring/ activity to the RPR no less than every []
- If at any time the frequency/ quantity of nutritional and fluid intake and/ or changes in weight represent a significant cause of concern for []'s wellbeing, promptly contacts the relevant primary care or other relevant service to discuss whether an assessment or any other medical intervention is required
- Logs its efforts to secure a review/ intervention, and makes its log available – along with records of nutrition/ hydration and weight - to the Supervisory Body when requested, and when any review and/ or repeat DoLS assessments are carried out by Best Interests Assessors and/ or Mental Health Assessors.

NB: as with all recommendations, the above should only be included where the BIA has identified a concern with nutrition/ hydration. If they are included, ensure that they are tailored to P's circumstances i.e. of the above five bullet points, only include those which apply to P.

Activities and engagement

It is recommended that the Managing Authority (Care Home Manager):

- continues to use its best endeavours to support and encourage []'s stimulation, engagement with activities and community access wherever possible
- where [] declines to engage with activities/ community access, where practicable, provides 1:1 time in lieu to enhance []'s socialisation OR
- where [] declines to engage with activities/ community access, the MA works together with []'s lead care practitioner to consider what alternative support may enhance []'s socialisation (for example a referral to Friendship at Home's befriending scheme)
- maintain a record of all offers of activities/ community access made to [] and their responses to the same.

NB not all Ps will have a lead care practitioner. You may need to substitute this wording for an alternative professional as relevant to P. Please be mindful that whilst it is reasonable to expect some adjustments to be made for P's individual needs, unless separately commissioned and paid for, care homes may not generally be able to provide individually tailored activities.

Miscellaneous

Health checks

It is recommended that the Managing Authority (Care Home Manager) contact's [] GP/ Primary Care Centre to arrange for [] to receive their annual health check. The Managing Authority should log its efforts to secure a health check, and makes its log available to the Supervisory Body when requested, and when any review and/ or repeat DoLS assessments are carried out by Best Interests Assessors and/ or Mental Health Assessors.

Appointed decision makers

It is recommended that the Managing Authority (Care Home Manager):

- requests that any attorney or deputy provides a copy of the legal instrument appointing them (i.e. any Enduring Power of Attorney document, any Lasting Power of Attorney document or Court of Protection deputyship order); and
- holds copy document(s) with []'s records.

DNACPR/ ReSPECT

It is recommended that the Managing Authority (Care Home Manager) contact the professional who drafted []'s ReSPECT documentation (Recommended Summary Plan for Emergency Care and Treatment) to ensure that it is properly completed. The following in particular should be addressed:

- []
- [].

A ReSPECT form may have been completed by a GP, other PCN staff member or hospital staff. You may wish to list any areas that you feel need particular attention e.g. lack of proper consultation or inadequate reasons given, using the bullet points/ filling in the square brackets.

Appendix Three: process for monitoring DoLS Conditions

1. Once a BIA has included DoLS Conditions, the Focus Business Services Officer (BSO) processing the DoLS inputs them on the DoLS Conditions spreadsheet and highlights agreed dates that each condition must be complied with by (these then form the dates to chase-up any conditions with the MA).
2. DoLS Condition chase emails are sent to the MA (as required) by the Senior Business Services Officer (SBSO) and these are monitored thereafter – profile notes are entered on SystmOne to record this.
3. Once a reasonable response has been received from the MA, SystmOne and the Conditions spreadsheet are updated as required – should any additional information be required from the MA, the MA is chased again.
4. Should a response not be received, a period of seven days would elapse before a further chase-up email is sent to the MA (keeping the email thread) – a total of three emails are sent to the MA before a follow up telephone call is made to the MA.
5. Should a response not be received at all from the MA, this is identified on the conditions spreadsheet and recorded on SystmOne as required. An entry is also made on to the Intelligence Portal, with the SBSO and the BIA informed (if the BIA indicated in their assessment that they wished to be consulted following the DoLS process). Recording on the Portal in this way allows the contract officer for the MA to follow up with the MA directly.
6. Depending on the nature of the condition, the period during which the condition has not been complied with and the implications of non-compliance for P, the Business Services Manager will consider:
 - a) alerting any lead practitioner which P may have, who may offer additional support to secure compliance
 - b) alerting P's RPR, who may offer additional support to secure compliance
 - c) whether instigating a Part 8 review is appropriate
 - d) whether making a safeguarding referral is appropriate.
7. Where conditions pertain to objections, further information is generally requested (if not already provided) by the SBSO around the frequency of objections and how these are being evidenced (including any outcomes), how P displays objections (verbally or physically exit seeking etc.), if there are any known triggers etc.
8. Where no recent IMCA reports have been received for any P with a paid RPR, contact is made with the advocacy service by the SBSO to obtain relevant IMCA reports and to confirm whether there are concerns and/or likelihood of a s21A challenge being considered/ pursued.

When conditions are not complied with or their purpose is not achieved

Reports made via the Intelligence Portal of a failure to comply with conditions (see 5 above), are considered via the NEL Integrated Care Board (ICB) incident meeting. Depending on the nature of the condition that is not complied with, the circumstances and implications for P, ICB staff may:

- make enquires with/ representations to the MA where the failure to comply results largely from the MA's failure to act
- make enquiries with/ representations to any other relevant provider, where the failure to comply results largely from that provider's failure to cooperate with the MA/ the condition has been complied with but the intended purpose has not been achieved for P (for example, the MA has complied with the condition to seek a medication review, but the review has not been carried out as requested)
- take any other action set out at 6 above, or request that the Business Services Team undertake that action.

A combination of actions may be taken. Actions will be informed by matters such as: the severity of P's restrictions which the condition is designed to address, the level of external support P receives (e.g. from an advocate or RPR), previous non-compliance with conditions by the MA, the MA's CQC rating, and the presence of safeguarding considerations^{xxviii}.

ⁱ MCA DoLS Code of Practice, paragraph 4.16

ⁱⁱ MCA DoLS Code of Practice, paragraph 4.74

ⁱⁱⁱ MCA DoLS Code of Practice, paragraph 4.74

^{iv} MCA DoLS Code of Practice, paragraph 4.74

^v MCA DoLS Code of Practice, paragraph 4.75

^{vi} MCA DoLS Code of Practice, paragraph 4.74

^{vii} Mental Capacity Act 2005 Schedule A1, paragraph 53(1)/(3)/ Deprivation of Liberty Code of Practice, checklist for managing authorities

^{viii} Mental Capacity Act 2005 Schedule A1, paragraph 4(3)

^{ix} Mental Capacity Act 2005 s21A

^x Deprivation of Liberty Safeguards (DoLS) Handbook, second edition, AF Mughal and S Richards, p119

^{xi} Deprivation of Liberty Safeguards (DoLS) Handbook, second edition, AF Mughal and S Richards, p119

^{xii} Re W [2016] EWCOP 58, paragraph 15

^{xiii} Re W [2016] EWCOP 58, paragraph 11

^{xiv} Re W [2016] EWCOP 58, paragraph 11

^{xv} Re W [2016] EWCOP 58, paragraph 6

^{xvi} Re W [2016] EWCOP 58, paragraph 12

^{xvii} Deprivation of Liberty Safeguards (DoLS) Handbook, second edition, AF Mughal and S Richards, p118

^{xviii} Mental Capacity Act 2005 Schedule A1, paragraph 107(1)/(2)

^{xix} Mental Capacity Act 2005 Schedule A1, paragraph 113(3)

^{xx} Mental Capacity Act 2005 Schedule A1, paragraph 107(3)

^{xxi} Mental Capacity Act 2005 Schedule A1, paragraph 111(4)/(5)

^{xxii} MCA DoLS Code of Practice, paragraph 8.14

^{xxiii} The Best Interest Assessors Practice Handbook, second edition, R Hubbard and K Stone, p100

^{xxiv} The Best Interest Assessors Practice Handbook, second edition, R Hubbard and K Stone, p101

^{xxv} MCA DoLS Code of Practice, paragraph 4.75

^{xxvi} The Best Interest Assessors Practice Handbook, second edition, R Hubbard and K Stone, p100

^{xxvii} MCA DoLS Code of Practice, paragraph 5.5

^{xxviii} Deprivation of Liberty Safeguards (DoLS) Handbook, second edition, AF Mughal and S Richards, p120