

Policy No: ReS 6.4E

Mental Capacity Act 2005 Deprivation of Liberty Safeguards (MCA DOLS) - Children's Services

1 Policy

1.1 Background and Introduction

Important Note: This policy is to be comprehensively reviewed at such time as the new legislation the 'Liberty Protection Safeguards' (LPS) becomes law and is in use. At the time of writing the target date for implementation is now 1 April 2022. Prior to this, following a 12-week consultation planned for 2021, both a single Mental Capacity Act, and LPS Code of Practice, and regulations, will be laid before Parliament and subsequently published. In the interim please follow this policy and guidance as it stands. If Supervisory Authorities request different forms to be completed, please be guided by their process.

The Deprivation of Liberty Safeguards ('DOLS') were designed to protect vulnerable people who lack the capacity to consent to their care and support regime. They were brought into force in April 2009 to ensure that professionals, such as doctors, social workers, nurses and care home staff protected people's rights when they had to deprive people lacking capacity of their liberty because it was considered to be in the person's "best interests". *DOLS ONLY applies to care homes for adults and hospital settings.*

Any child or young person aged 16 and above living in a children's home need to be protected if a risk assessment confirms that they are being deprived of their liberty. Hesley Group managers MUST ensure the child's local authority is made aware of the situation and will ask the Authority to take appropriate action. At the time of writing this will require the Authority to seek an order from the Court of Protection or the High Court/Family Court (Inherent Jurisdiction). When the LPS come into use in 2022, the process will not require application to the Court.

By following proper legal processes Hesley Group can ensure that young people are deprived of liberty only when necessary and that this is done within the law. The law gives these people certain rights which they would not otherwise have, for example to have their care and support plans carefully assessed in terms of individual rights and to be able to appeal against any deprivation.

Printed on: _____ (Date) By: _____ (Name)

Signature: _____

Policy No: ReS 6.4E**2 Procedures**

- 2.1 Guidance and Working Instructions for Hesley Group Children's services staff are set out in [ReS 6.4E.1](#).
- 2.2 This policy should be read in conjunction with the Law Society Guidance published in April 2015, [ReS 6.4E.1 Appendix 3](#). Other important documents are listed below.

Until the LPS are introduced in April 2022 Hesley Group employees must follow the law as it currently stands. It is anticipated that DOLS and LPS will run concurrently for one year. Where there are particular complexities in relation to individuals the policy team will be contacted and will, on behalf of Hesley Group, seek legal advice.

Date of this Policy	Next planned review date
11/11/2021	11/11/2023

3 Standard Forms, Letters and Documents

- 3.1 [Guidance and Working Instructions in Deprivation of Liberty Safeguards \(DoLS\) Judicial Deprivation of Liberty in Children's Homes, ReS 6.4E.1](#)
- 3.2 Appendix 1 - [Deprivation of Liberty and 16-17 year olds \(Research in Practice 2020\), ReS 6.4E.1 Appendix 1](#)
- 3.3 Appendix 2 - [Deprivation of Liberty – Under 18s – quick guide \(Law Society April 2015\), ReS 6.4E.1 Appendix 2](#)
- 3.4 Appendix 3 - [Deprivation of Liberty – A Practical Guide \(Law Society April 2015\), ReS 6.4E.1 Appendix 3](#)
- 3.5 Appendix 9 - [Judicial DoL Children's Services Model Letter to Authority, ReS 6.4E.1 Appendix 9](#)
- 3.6 Appendix 10 - [Judicial DoL Children's Services Risk Assessment, ReS 6.4E.1 Appendix 10](#)
- 3.7 Appendix 11 - [Judicial DoL Children's Services Activity Log, ReS 6.4E.1 Appendix 11](#)
- 3.8 Appendix 12 - [Judicial DoL Children's Services Referral Form to LA, ReS 6.4E.1 Appendix 12](#)
- 3.9 [Deprivation of Liberty Safeguards Code of Practice MCA 2005, ReS 6.4E.2](#)
- 3.10 [Easy Read Summary of Policy, ReS 6.4E.3](#)

4 Other Documents to be Referred to

- 4.1 Summary Document AG v BMBC [2016] EWCOP 37 (Covert Medications)
http://www.39essex.com/cop_cases/ag-v-bmbc-anor/
- 4.2 [Assessment and Admissions, Policy Res 1.1](#)
- 4.4 [Review Policy – Children’s Services, ReS 1.2B](#)
- 4.5 [Children’s Homes Regulations and Quality Standards 2015](#)