

# **Deprivation of Liberty Safeguards (DoLS) Policy**

**V2.0**

**March 2019**

# Summary – DoLS Flowchart

## RCHT Deprivation of Liberty Safeguards (DOLS) Flowchart

RCHT identify a patient whose treatment/admission to hospital *may* constitute deprivation of liberty

**Does the patient meet ALL requirements?**

1. Is the person 18 or over?
2. Is the person assessed as suffering from a mental disorder?
3. Is the person assessed as lacking capacity to make decisions about their treatment and being in hospital?
4. The person does not have any other existing authority for decision making in place?
6. The persons needs to be deprived of liberty, in their best interests, to prevent harm to themselves

**Is the person subject to both continuous supervision and control?  
AND  
Is the person not free to leave?**

**Complete DoLS form: Standard and Urgent Request**

Forms can be accessed via  
**RCHT Intranet > Clinical Shelf**  
or  
RCHT Safeguarding Team Ext 4551  
Cornwall Council DoLS Team Tel: 01872 323426

If the patient is trying to leave before the DoLS forms are complete, they may be held using the Mental Capacity Act in their best interest, allowing time for the DoLS paperwork to be completed and emailed to the Council and RCH DoLS Team. This must be done as a matter of priority.

Send completed forms via email with **[secure]** in the subject box to:  
[dolsapplication@cornwall.gov.uk](mailto:dolsapplication@cornwall.gov.uk) and [rch-tr.DoLS@nhs.net](mailto:rch-tr.DoLS@nhs.net)

**Please ensure you send to both email addresses**

Ward Manager or Nurse in charge to provide patient and person to consult (family member/friend) with the DoLS letter and leaflet. They should also provide a verbal explanation of DOLs, the implications and process. Record the giving of information in the patient notes.

Statutory assessments commissioned by Cornwall Council to take place within 7 days, an extension to the urgent authorisation may be required. Cornwall Council will advise and support with any extensions.

Has authorisation for Deprivation of Liberty Safeguards been agreed?

**YES**

**NO**

If Authorisation is required beyond the expiry date a new application must be made

Expiry Date of Standard Authorisation cannot exceed 12 months in duration without formal review and fresh application

If mental capacity returns prior to the DoLS expiring or the person is discharged or dies, the DoLS is no longer valid.  
  
Inform the RCHT Safeguarding Adults Team of

- Care and treatment to be provided in the patients best interests
- Consider least restrictive environment for alternatives for treatment
- Seek senior clinical / legal advice if unsafe to be discharged
- When plan in place allow to leave hospital taking all reasonable care to ensure safe discharge

For advice, support or more information contact RCHT Safeguarding Team  
Contact details: 01872 254551

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## 1. Introduction

1.1. The deprivation of liberty safeguards provide legal protection for those vulnerable people who are, or may become, deprived of their liberty within the meaning of Article 5 of the European Convention of Human Rights (ECHR) in a hospital or care home, whether placed under public or private arrangements. The safeguards exist to provide a proper legal process and suitable protection in those circumstances where deprivation of liberty appears to be unavoidable, in a person's own best interests.

1.2. The Trust's Hospital Managers have a statutory duty to ensure that the Deprivation of Liberty Safeguards are applied and monitored.

1.3. All staff working within the framework of the Mental Capacity Act and Deprivation of Liberty Safeguards have a statutory duty to apply the key principles and pay due regard to the Codes of Practice.

1.4. The purpose of this policy and procedure is to provide support and guidance for those working within the framework of the Deprivation of Liberty Safeguards.

1.5. This version supersedes any previous versions of this document.

1.6. 1.3. Data Protection Act 2018 (General Data Protection Regulation – GDPR) Legislation

The Trust has a duty under the DPA18 to ensure that there is a valid legal basis to process personal and sensitive data. The legal basis for processing must be identified and documented before the processing begins. In many cases we may need consent; this must be explicit, informed and documented. We can't rely on Opt out, it must be Opt in.

The DPA18 covers how the Trust obtains, hold, record, use and store all personal and special category (e.g. Health) information in a secure and confidential manner. This Act covers all data and information whether held electronically or on paper and extends to databases, videos and other automated media about living individuals including but not limited to Human Resources and payroll records, medical records, other manual files, microfilm/fiche, pathology results, images and other sensitive data.

DPA18 is applicable to all staff; this includes those working as contractors and providers of services.

For more information about your obligations under the DPA18 please see the 'information use framework policy', or contact the Information Governance Team [rch-tr.infogov@nhs.net](mailto:rch-tr.infogov@nhs.net)

## 2. Purpose of this Policy/Procedure

2.1. The aims and objectives of this policy are to define and describe the processes of the Deprivation of Liberty Safeguards within RCHT.

2.2. This includes processes for:-

- The clinical and administrative application of the Deprivation of Liberty Safeguards
- The monitoring of the clinical and administrative application of the Deprivation of Liberty Safeguards.
- Supporting those applying or monitoring the Deprivation of Liberty Safeguards.

### **3. Scope**

3.1. This policy applies to all permanent, temporary, locum, agency and bank staff of Royal Cornwall Hospitals NHS Trust, including doctors, nurses, allied health professionals, support staff, and managers.

3.2. Whilst the policy outlines how the Trust will manage DoLS it does not replace the personal responsibilities of staff with regard to issues of professional accountability for governance.

### **4. Definitions / Glossary**

4.1. Deprivation of Liberty Safeguard – a legal authorisation that allows a managing authority to deprive someone who lacks mental capacity of their liberty.

4.2. Mental capacity - Mental capacity is the ability of an individual to make decisions about specific aspects of their life.

4.3. Mental Disorder - As defined in section 1 of the Mental Health Act 1983, a mental disorder is any disorder or disability of the mind, apart from dependence on alcohol and drugs. This includes all learning disabilities.

4.4. Managing Authority - the organisation responsible for applying for the DoLS authorisation i.e. Royal Cornwall Hospitals NHS Trust

4.5. Supervisory Body / Authority – the Local Authority (Cornwall Council) which covers the person's normal place of residence. Local Authorities are responsible for considering a DoLS request, arranging the required assessments and agreeing or denying a DoLS authorisation.

### **5. Ownership and Responsibilities**

5.1. The Trust Board has a duty to ensure that the Trust is compliant when operating within the framework of the Deprivation of Liberty Safeguards.

5.2. All Consultants should have a working knowledge of the MCA and will act as decision makers. They are responsible for ensuring their teams complete the relevant assessments and documentation. They will also provide guidance within their teams.

5.3. All Managers must be aware of Trust Policy and Guidelines and to ensure their staff comply with the requirements of these documents.

5.4. The Learning and Development Department will facilitate the provision of training opportunities for all staff groups at induction and in line with Trust Policy.

5.5. Medical staff (ST3 and above), Matrons, Site Coordinators, Specialist Nurses, Ward Managers and Nurses in Charge are responsible for completing both the urgent and standard authorisation forms and are designated signatories.

5.6. Individual members of staff must ensure they are aware of and follow this policy.

5.7. RCHT Safeguarding Services are responsible for supporting and advising staff on the application of DoLS, reporting to the lead executive on the application of the act and reporting of any known instances of an unauthorised DoLS and for the collation of DoLS data other than that held in respect of the CQC notifications.

5.8. Legal Services Team are responsible for reporting DoLS deaths to the Coroner, updating Datix, and ensuring appropriate reports and documentation are provided to the Coroner.

## **6. Standards and Practice**

### **6.1. Legal Framework**

6.1.1. The Deprivation of Liberty Safeguards operates as part of the Mental Capacity Act 2005 and not instead of or in isolation from it.

6.1.2. Anybody working within the framework of the Mental Capacity Act 2005 (and hence the Deprivation of Liberty Safeguards) must work within the framework of that Act's 5 Key Principles

6.1.3. The 5 Key Principles of the Mental Capacity Act 2005 are:-

- **Presumption of Capacity:** A person must be assumed to have capacity unless it is proved otherwise.
- **Maximising decision-making:** Until all practical steps have been taken to help someone make a decision without success they cannot be treated as lacking capacity.
- **Unwise decisions:** An unwise decision does not in itself indicate a lack of capacity
- **Best interests:** Any act done or decision for someone lacking capacity must be made in their best interests.
- **Less restrictive option:** When a person lacks capacity any act or decision should aim to be a less restrictive option to the person in terms of their right and freedom of action.

### **6.2. Process for applying for a DoLS Authorisation - Eligibility criteria and the 'Acid Test'**

6.2.1. To be eligible for DoLS the patient must be assessed as lacking capacity to make decisions about their treatment and being in hospital – the capacity assessment must be recorded in the patient's medical records.

6.2.2. The patient must also meet all of the criteria below:

- 18 years and over

- Assessed as suffering from a mental disorder which includes all people suffering from learning disabilities but excludes people under the influence of alcohol or drugs
- Not have any other existing authority for decision making in place i.e. Lasting Power Attorney or Advanced Decision (This only applies if the donee, deputy or Advance Decision to Refuse Treatment (ADRT) specifically excludes elements of the treatment plan that constitutes a deprivation of liberty)
- Need to be deprived of liberty, in their best interests, to prevent harm to themselves in a manner that is necessary and proportionate to the risks.

6.2.3. There are two further questions which must be asked. These are described as the 'acid test':

- Is the person subject to both continuous supervision and control?  
AND
- Is the person free to leave? (Indefinitely and not return)

### 6.3. Applying for a DoLS

6.3.1. DoLS forms are available via the RCHT Clinical Shelf

6.3.2. It is the responsibility of the clinical team caring for the patient to apply for a DoLS authorisation. The care team should not be referring to other services for this.

6.3.3. The Standard and Urgent form must be completed and sent by email with [secure] in the subject box (as the information is patient identifiable data). Email the forms to both:

- [DoLSapplication@cornwall.gov.uk](mailto:DoLSapplication@cornwall.gov.uk) and
- [rch-tr.DOLS@nhs.net](mailto:rch-tr.DOLS@nhs.net)

6.3.4. If you need guidance on completing the forms or a DoLS care plan please contact the RCHT Safeguarding Team on 01872 254551 or via Switchboard.

6.3.5. Once emailed the forms should be printed and filed in the patient's medical record in the Legal Section.

6.3.6. If the patient is trying to leave before the process is complete, they may be held using the Mental Capacity Act in their best interest, allowing time for the DoLS paperwork to be completed and emailed to the Council and RCH DoLS Team. This must be done as a matter of priority.

6.3.7. Once Cornwall Council has received the application, a member of the DoLS team will call within 5 working days to gather more information. Following this you will receive a letter via email from RCH DoLS Team confirming the priority status of the application, which you should file in the legal section of the patient's medical records.

## **6.4. Patient and Person to consult information**

6.4.1. The patient and the person to consult in their best interests (relative or friend) must be given information about the DoLS which is available on the Clinical Shelf.

6.4.2. The patient must be given the:

- Letter
- Leaflet
- A copy of the DoLS forms

6.4.3. The Relative / Person to consult must be given the:

- Letter
- Leaflet

6.4.4. The patient must also be given a verbal explanation and this should be documented in the medical records.

6.4.5. It may not be appropriate to give the information at the time of the application; if it is deemed inappropriate the reasons should be clearly documented in the medical notes. The information must be given as soon as appropriate.

## **6.5. CQC notification**

It is a requirement of the Trusts registration with the Care Quality Commission (CQC) that they are informed of all DoLS applications and outcomes. This is managed centrally by Safeguarding Services.

## **6.6. Transfer of a patient subject to DoLS**

6.6.1. It is permissible to transfer a patient who is held under a DoLS to another ward belonging to RCHT within the same hospital, however any movement should be undertaken in the patients' best interest.

6.6.2. If a patient is transferred between the RCHT sites, for example from Royal Cornwall Hospital to West Cornwall Hospital, a new DoLS application will be required.

6.6.3. The transfer of a patient to another hospital or placement must be done in the patients' best interest and without objection. If the patient or their relatives are objecting, legal guidance must be sought.

## **6.7. Death of a patient subject to DoLS**

If a hospital in-patient is subject to a DoLS at the time of their death the bereavement office must be informed. The bereavement office will highlight this to the mortuary staff and the reporting doctor will inform the coroner. The bereavement office will notify the legal team and ensure correct coronial processes are followed.

## **6.8. What Happens Next**

6.8.1. The Supervisory Body (Cornwall Council) makes arrangements for the required assessments to be undertaken. Clinical staff should support this assessment process but do not undertake the assessments themselves. Access to the medical records will be required by the assessors.

6.8.2. On completion of the assessment process, the Supervisory Body (Cornwall Council) will either grant or deny the DoLS authorisation. The RCHT DoLS Team will forward the outcome documentation to the ward which must be filed in the medical record.

6.8.3. The DoLS care plan should be maintained detailing the treatment plan and on-going reviews of Mental Capacity and the need for a continuing DoLS authorisation.

6.8.4. A patient authorised under DoLS may be kept in the Royal Cornwall Hospitals Trust for the proposed treatment and care until:

- The course of treatment is completed and the patient no longer needs to remain in hospital and can return to their normal place of residence.
- Arrangements have been made for on-going care to continue in another location e.g. home, care home or other hospital.
- The DoLS is judged to no longer be required. The clinical team must inform the DoLS Office and RCHT Safeguarding Services.
- The patient's mental capacity returns and they are able to make their own decision about continuing with treatment and care.
- Until the Standard authorisation expires. If there continue to be concerns that the patient lacks mental capacity and requires ongoing care and treatment contact the RCHT Safeguarding Services for advice and support.

6.8.5. The clinical team must inform the Cornwall Council DoLS Team and RCHT Safeguarding Services if the DoLS is no longer required due to a change of treatment plan or the patient regaining mental capacity.

## **6.9. DoLS Authorisation is declined**

6.9.1. Consideration should be given to whether a different treatment option or care location can be arranged such as a change of antibiotics to allow administration to take place in the community, a less invasive or aggressive therapy or transfer to a facility closer to family and friends.

6.9.2. Clinical staff should take steps to reduce the risks of discharge e.g. the provision of medication, liaison with GP, liaison with social care and other community services, liaison with relatives and friends of the patient.

6.9.3. If there are major concerns about the patients safety should they leave hospital and fail to comply with what is deemed essential treatment and care, senior clinical advice should be sought from the RCHT Safeguarding Services 01872 254551.

## **6.10. Deprivation of Liberty Safeguards and Appeals to the Court of Protection**

6.10.1. If there is an objection to an intention to apply DoLS the Managing Authority must refer the case to the Court of Protection (assuming that all attempts at local resolution have been unsuccessful). Support within RCHT can be sought from Safeguarding Services.

6.10.2. An appeal may be lodged by the patient (or someone acting on their behalf) even before a decision to issue a Standard Authorisation has been reached.

## **6.11. For information on who can appeal to the Court of Protection**

(In respect of decisions taken (or being considered) under the Deprivation of Liberty Safeguards refer to appendix 3. Unauthorised Deprivations of Liberty)

6.11.1. If staff are concerned that an unauthorised deprivation of liberty has occurred or is likely to occur within the Trust then a senior clinician should review the situation as a matter of urgency and steps taken to avoid any further unauthorised deprivations of liberty. In order to achieve this it may be necessary to make a DoLS application.

6.11.2. Any unauthorised deprivation of liberty must be reported on DATIX and also be reported immediately to RCHT Safeguarding Services or, if it is out of hours, call the Clinical Site Co-ordinator.

6.11.3. If there is a concern that a deprivation of liberty may be occurring in non-Trust accommodation then staff should discuss the concerns with their line manager and RCHT Safeguarding Services who will ensure appropriate onward reporting.

## **6.12. Monitoring Processes**

6.12.1. Inspection bodies including the Care Quality Commission will monitor the compliance of RCHT in applying this statutory power.

6.12.2. These inspection bodies will:

6.12.2.1 Monitor the manner in which the Deprivation of Liberty Safeguards is being applied in practice.

6.12.2.2 Visit hospitals and care-homes for the purpose of inspection.

6.12.2.3 Interview people residing or accommodated in care homes and/or hospitals as appropriate.

6.12.2.4 Inspect the relevant Authorisation of Deprivation records as appropriate.

6.12.2.5 Report annually (this may be a single, specific Deprivation of Liberty Safeguards report or it may be part of a report detailing a more generalised inspection).

6.12.2.6 Have the power to require the relevant Supervisory Bodies/Managing Authorities to disclose information as requested.

6.12.2.7 Look at Deprivation of Liberty protocols/procedures within Supervisory Bodies/Managing Authorities.

### **6.13. RCHT Deprivation of Liberty (DoLS) Records**

A central register of DoLS applications and outcomes will be held and managed by the RCHT Safeguarding Services.

### **6.14. Does the Mental Health Act Apply?**

6.14.1. When a person lacking mental capacity is in a hospital, receiving treatment for a mental disorder and is, or is likely, to have their liberty deprived, consideration should be given as to whether to use the provisions of the Mental Health Act rather than DoLS. If the person fits the criteria to be detained under the Mental Health Act applied then that must be the chosen route.

6.14.2. Factors that may indicate use of the Mental Health Act rather than DoLS include:

6.14.2.1 The patient's lack of capacity to consent to treatment and care is fluctuating or temporary and the patient is not expected to consent when they regain capacity. This may be particularly relevant to patients having acute psychotic, manic or depressive episodes.

6.14.2.2 A degree of restraint needs to be used which is justified by the risk to other people but which is not permissible under the MCA because, exceptionally, it cannot be said to be proportionate to the risk to the patient personally.

6.14.2.3 There is some other specific identifiable risk that the person or others might potentially suffer harm as a result. For example, if there is a risk that the person may need to be returned to the hospital or care home at some point in a manner that would not be authorised under DoLS.

6.14.2.4 The person is a Mental Health patient and is objecting to their Mental Health care and or treatment.

### **6.15. Training Requirements**

6.15.1. All clinical staff working directly with patients should have a basic understanding of DoLS. An introduction will be included in Adult Safeguarding training on induction.

6.15.2. Each line manager has the responsibility to ensure that their staff are afforded the opportunity to undertake all essential training.

## **7. Dissemination and Implementation**

7.1. This policy is to be implemented and disseminated through the organisation immediately following ratification and will be published on the organisations intranet site document library. Access to this document is open to all.

7.2. The Policy will be available to all external stakeholders via the Documents Library on the Intranet.

7.3. This policy document will be held in the public section of the Documents Library with unrestricted access, replacing the previous version which will be archived in accordance with the Trust Information Lifecycle and Corporate Records Management Policy.

7.4. Provision of mandatory safeguarding adults training, including the Mental Capacity Act and the Deprivation of Liberty Safeguards will be delivered by the Learning and Development Department as outlined in the RCHT Core Training Policy. Reference to relevant sections from this Policy will be utilised at all RCHT Level 1 & 2 Safeguarding Adults mandatory training.

## 8. Monitoring compliance and effectiveness

Monitoring of compliance with this guidance will be reported to the Safeguarding Committee.

Element to be monitored	Audit documentation will capture and record evidence regarding the completeness, timeliness, authorised signatories, patient and family information provided – Urgent Authorisation Standard Authorisation DoLS Care Plan Patient Letter Leaflet Family Letter
Lead	The audit will be undertaken by members of the RCHT Adult Safeguarding Operational Group (ASOG) following the designation of a lead auditor by the ASOG Chair.
Tool	Audit documentation will capture and record evidence regarding the identified elements to be monitored
Frequency	The audit will be undertaken on an annual basis, the initial audit will be within 6 months of the policy ratification.
Reporting arrangements	RCHT Adult Safeguarding Operational Group (ASOG)
Acting on recommendations and Lead(s)	Where the report indicates sub optimal performance the Chair of ASOG will nominate a group member to produce an action plan. The ASOG will be responsible for monitoring progress and will undertake subsequent recommendations and further action planning for all deficiencies identified within agreed timeframes.
Change in practice and lessons to be shared	Required changes to practice identified will be documented in the action plan outcomes. The membership of the ASOG will identify a lead to take each change forward across divisions as appropriate. Lessons will be shared with all relevant parties.

## 9. Updating and Review

This policy will be reviewed every 3 years or earlier in view of developments which may include legislative changes, national policy instruction (NHS or Department of Health) or Trust Board decision. Revisions can be made ahead of the review date when the procedural document requires updating.

## 10. Equality and Diversity

10.1. This document complies with the Royal Cornwall Hospitals NHS Trust service Equality and Diversity statement which can be found in the ['Equality, Diversity & Human Rights Policy'](#) or the [Equality and Diversity website](#).

10.2. The Initial Equality Impact Assessment Screening Form is at Appendix 2.

## Appendix 1 Governance Information

<b>Document Title</b>	Deprivation of Liberty Safeguards (DoLS) Policy V2.0		
<b>Date Issued/Approved:</b>	July 2018		
<b>Date Valid From:</b>	March 2019		
<b>Date Valid To:</b>	March 2022		
<b>Directorate / Department responsible (author/owner):</b>	Specialist Nurse for Mental Health and Wellbeing, Safeguarding Adults and MCA Lead		
<b>Contact details:</b>	01872 254551		
<b>Brief summary of contents</b>	The aims and objectives of this policy are to define and describe the processes of the Deprivation of Liberty Safeguards within RCHT.		
<b>Suggested Keywords:</b>	Mental Capacity Act, MCA, deprivation, Deprivation of Liberty, Deprivation of Liberty Safeguards, DoLS, restriction, restrictive practice, detention, legal framework		
<b>Target Audience</b>	<b>RCHT</b> ✓	<b>CFT</b>	<b>KCCG</b>
<b>Executive Director responsible for Policy:</b>	Director of Nursing		
<b>Date revised:</b>	September 2018		
<b>This document replaces (exact title of previous version):</b>	Deprivation of Liberty (DoLS) Policy and Procedure V1.3		
<b>Approval route (names of committees)/consultation:</b>	Safeguarding Adults Operation Group, RCHT Legal team, Consultation with clinical staff, Cornwall Council DoLS Lead.		
<b>Divisional Manager confirming approval processes</b>	Director of Nursing		
<b>Name and Post Title of additional signatories</b>	Not Required		
<b>Name and Signature of Divisional/Directorate Governance Lead confirming approval by specialty and divisional management meetings</b>	{Original Copy Signed}		
	Frazer Underwood		
<b>Signature of Executive Director giving approval</b>	{Original Copy Signed}		
<b>Publication Location (refer to Policy on Policies – Approvals and Ratification):</b>	Internet & Intranet	✓	Intranet Only

<b>Document Library Folder/Sub Folder</b>	Safeguarding Adults
<b>Links to key external standards</b>	The Deprivation of Liberty Safeguards 2007 The Mental Capacity Act 2005 CQC Essential Standards of Quality and Safety – Outcome 7
<b>Related Documents:</b>	<ul style="list-style-type: none"> <li>• RCHT Policy and Procedures for the Safeguarding of Vulnerable Adults</li> <li>• RCHT Procedure for the Safe and Supportive Observations in Adults</li> <li>• RCHT Record Keeping Policy</li> <li>• RCHT Consent to Treatment/Examination</li> <li>• RCHT Restrictive Practice Policy</li> <li>• RCHT Management of Violence &amp; Aggression Policy</li> <li>• RCHT Code of Conduct for employees in respect of confidentiality</li> <li>• RCHT Data Protection and Caldecott Guidance</li> <li>• Clinical Governance and Adult Safeguarding-an integrated approach (2010)</li> <li>• Guidance for Practitioners and Managers HM Government (2008)</li> <li>• Human Rights Act (1998)</li> <li>• Mental Capacity Act &amp; Deprivation of Liberty Safeguards codes of practice and decision making guides (2009)</li> <li>• Mental Capacity Act Code of Practice (2008)</li> <li>• Mental Health Act Code of Practice (2007)</li> <li>• National Patient Safety Agency National Framework for reporting and learning from serious incidents requiring investigation (2010)</li> <li>• No secrets: Guidance on developing multi-agency policies and procedures to protect vulnerable adults from abuse Department of Health March (2000)</li> <li>• Safeguarding adults: a national framework of standards for good practice and outcomes in safeguarding adults work (2005)</li> </ul>
<b>Training Need Identified?</b>	Yes - RCHT is responsible for ensuring all clinical staff are offered training with regards to the key aspects of the Mental Capacity Act 2005 and the Deprivation of Liberty Safeguards included within this Policy.

## Version Control Table

<b>Date</b>	<b>Version No</b>	<b>Summary of Changes</b>	<b>Changes Made by (Name and Job Title)</b>
28 Oct 2014	V1.0	Initial Issue	Lerryn Hogg Specialist Nurse for Mental Health and Wellbeing
2 Jan 2018	V1.1	Review – minor amendments (Job titles, telephone numbers, names of forms)	Lerryn Hogg – MCA Lead
7 Sep 2018	V1.2	Changed DoLS email to reflect current address	Rebecca Ottewell Safeguarding Administrator
14 Dec 2018	V1.3	Replaced two out of date extension numbers and clarified bullet point within section 6.8.5	Rebecca Ottewell Safeguarding Administrator
18 Feb 2019	V2.0	Updated Flow Chart and points 5 and 6 to reflect current working practice. Safeguarding Team changed to Safeguarding Services throughout.	Lerryn Hogg – MCA lead and Rebecca Ottewell Safeguarding Administrator

**All or part of this document can be released under the Freedom of Information Act 2000**

**This document is to be retained for 10 years from the date of expiry.**

**This document is only valid on the day of printing**

### **Controlled Document**

This document has been created following the Royal Cornwall Hospitals NHS Trust Policy for the Development and Management of Knowledge, Procedural and Web Documents (The Policy on Policies). It should not be altered in any way without the express permission of the author or their Line Manager.

## Appendix 2 Initial Equality Impact Assessment Form

This assessment will need to be completed in stages to allow for adequate consultation with the relevant groups.

Name of Name of the strategy / policy /proposal / service function to be assessed <b>Deprivation of Liberty Safeguards (DoLS) Policy V2.0</b>						
Directorate and service area: <b>Corporate</b>			Is this a new or existing <i>Policy</i> ? <b>Existing</b>			
Name of individual completing assessment: <b>Lerryn Hogg</b>			Telephone: <b>01872 254551</b>			
1. Policy Aim*  Who is the strategy / policy / proposal / service function aimed at?		The aims and objectives of this policy are to define and describe the processes of the Deprivation of Liberty Safeguards within RCHT. This includes processes for: <ul style="list-style-type: none"> <li>• The clinical and administrative application of the Deprivation of Liberty Safeguards</li> <li>• The monitoring of the clinical and administrative application of the Deprivation of Liberty Safeguards</li> <li>• Supporting those applying or monitoring the Deprivation of Liberty Safeguards</li> </ul>				
2. Policy Objectives*		To ensure the legalities and statutory responsibilities within the Deprivation of Liberty Safeguards and associated legislation are embedded into clinical practice.				
3. Policy – intended Outcomes*		Documentation audit, reported incidents of deviation from the Policy, Datix and safeguarding adult concerns				
4. *How will you measure the outcome?		All patients, and their family/friends, who are required to be Deprived of their Liberty whilst an inpatient at RCHT				
5. Who is intended to benefit from the policy?		The aims and objectives of this policy are to define and describe the processes of the Deprivation of Liberty Safeguards within RCHT. This includes processes for: <ul style="list-style-type: none"> <li>• The clinical and administrative application of the Deprivation of Liberty Safeguards</li> <li>• The monitoring of the clinical and administrative application of the Deprivation of Liberty Safeguards</li> </ul> Supporting those applying or monitoring the Deprivation of Liberty Safeguards				
6a) Who did you consult with		Workforce	Patients	Local groups	External organisations	Other
				✓	✓	
6b) Please list any groups who have been consulted about this procedure		<b>Please record specific names of groups</b> Safeguarding Adults Operational Group (SAOG)				

<b>What was the outcome of the consultation?</b>	Members of the Group approved Policy with minor amendments taken into account and actioned.
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**7. The Impact**  
Please complete the following table. **If you are unsure/don't know if there is a negative impact you need to repeat the consultation step.**

Are there concerns that the policy **could** have differential impact on:

Equality Strands:	Yes	No	Unsure	Rationale for Assessment / Existing Evidence
<b>Age</b>		X		<p>This Policy revision strengthens and clarifies the Trust's expectations that the Deprivation of Liberty Safeguards and associated legislation are adhered to and correctly implemented. It aims to ensure that patients who may have impaired mental capacity and who are deprived of their liberty are empowered and protected.</p> <p>Everyone who cares for, or makes decisions on behalf of someone who lacks capacity and is deprived of their liberty will follow the law therefore all clinical staff including doctors, nurses and allied health professionals who work directly with patients (regardless of their seniority) will be legally required to have regard to this Policy.</p>
<b>Sex</b> (male, female, trans-gender/ gender reassignment)		X		
<b>Race / Ethnic communities /groups</b>		X		
<b>Disability -</b> Learning disability, physical impairment, sensory impairment, mental health conditions and some long term health conditions		X		
<b>Religion / other beliefs</b>		X		
<b>Marriage and Civil partnership</b>		X		
<b>Pregnancy and maternity</b>		X		
<b>Sexual Orientation,</b> Bisexual, Gay, heterosexual, Lesbian		X		

**You will need to continue to a full Equality Impact Assessment if the following have been highlighted:**

- You have ticked "Yes" in any column above and
- No consultation or evidence of there being consultation- this excludes any *policies* which have been identified as not requiring consultation **or**
- Major this relates to service redesign or development

<b>8. Please indicate if a full equality analysis is recommended</b>	<b>Yes</b>		<b>No</b>	X
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**9. If you are not recommending a Full Impact assessment please explain why:**

Not required.

Signature of policy developer / lead manager / director  Lerryn Hogg	Date of completion and submission  02/01/2018	
Names and signatures of members carrying out the Screening Assessment	<ol style="list-style-type: none"> <li>1. Lerryn Hogg</li> <li>2. Human Rights, Equality &amp; Inclusion Lead</li> </ol>	

**Keep one copy and send a copy to the Human Rights, Equality and Inclusion Lead**  
 c/o Royal Cornwall Hospitals NHS Trust, Human Resources Department, Knowledge Spa, Truro, Cornwall, TR1 3HD

**This EIA will not be uploaded to the Trust website without the signature of the Human Rights, Equality & Inclusion Lead.**

A summary of the results will be published on the Trust's web site.

Signed 

Date 22 February 2019

### Appendix 3 Who can appeal to the Court of Protection in respect of decisions taken (or being considered) under the Deprivation of Liberty Safeguards

<b>COURT of PROTECTION</b>		
<b>Reason For Appeal</b>	<b>Who Can Appeal</b>	<b>Duty of the Court to Convene the Hearing</b>
<b>Applications made before Authorisation has been given</b>		
To ask the Court to terminate an application for authorisation before a decision has been reached	The Relevant person or someone authorised to appeal on behalf of that person	No statutory duty imposed. It is up to the Court whether to consider the application or not.
<b>Applications made after a decision has been reached and Standard Authorisation granted</b>		
Appeal to question whether the Relevant Person meets one or more of the qualifying requirements for Deprivation of Liberty	The Relevant person or someone authorised to appeal on behalf of that person	Court has a statutory duty to convene the hearing
Appeal to question the duration of the Standard Authorisation		
Appeal to question the purpose of the Standard Authorisation		
Appeal to question the conditions laid down in the Standard Authorisation		
<b>Application made after a decision has been reached and Urgent Authorisation granted</b>		
Appeal to question the duration	The Relevant person or someone authorised to appeal on behalf of that person	Court has a statutory duty to convene the hearing
Appeal to question the purpose		
<b>Application made after a decision has been reached where NEITHER Urgent NOR Standard Authorisation has been granted</b>		
Appeal to get the Court to reverse the decision and grant the Authorisation	Any interested party	No statutory duty imposed. It is up to the Court whether to consider the application or not.