

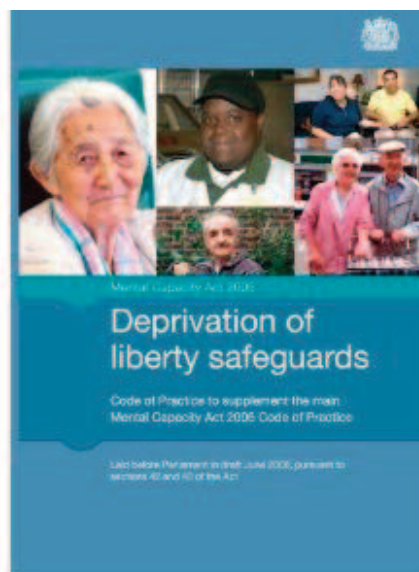
# Care home staff find safeguards against deprivation of liberty validate their practice

**Our research in this poorly studied area will next examine what other professionals, service users and relatives think about Deprivation of Liberty Safeguards (DOLS).**

**T**he Mental Capacity Act 2005 permitted carers to restrict the liberty of people who lack capacity to protect them from harm, if in their best interests. But it did not authorise deprivation of liberty, other than by application to the Court of Protection.

The Deprivation of Liberty Safeguards (DOLS) were subsequently developed so that people lacking capacity, and deprived of their liberty in care homes or hospitals, have legal protections. A DOLS application triggers several detailed reviews by DOLS assessors, with a DOLS only authorised when less restrictive means of caring for the person in question cannot be found and deprivation of liberty is considered to be in the person's best interests.

But how DOLS are being used, and when, and whether they protect the human rights of people lacking mental capacity in hospitals and care homes, as intended, is, as yet, unclear. But research under way at the University of Bristol should begin to fill in those gaps.



The research team is carrying out in-depth interviews with all those involved in several DOLS authorisations as well as an online survey of DOLS assessors in England, using a series of vignettes, in a bid to find out what factors assessors are using to determine whether or not the situations described constitute deprivation of liberty.

The team is particularly interested in what impact if any, DOLS have on human rights and the quality of care, explains research lead, Joan Langan. She cites an example of a woman who was not allowed to go into the kitchen, because she might get access to knives. But a condition of the DOLS authorisation was that the knife drawer could be locked, prompting this restriction to be lifted.

*'The core of it is about human rights and the most vulnerable people, and making sure they're cared for in the most appropriate and least restrictive way.. ..but somehow you're left feeling it could be done a bit more effectively.'*

Ms Joan Langan, senior lecturer, School of Policy Studies, University of Bristol

Some of the care home managers contacted said that they valued the external scrutiny provided by the DOLS authorisation process and felt that it gave them a seal of approval and validated their practice. Others said that DOLS had made them think more carefully about how to minimise restrictions, not just for the person subject to a DOLS, but for other residents too.

#### **Clarifying areas of uncertainty**

The feedback so far from care home/ward managers, health and social care staff, and DOLS staff indicates good levels of confidence about what is and isn't deprivation of liberty, when the issues are clear-cut.

Ms Langan cites an example of someone who had no sense of danger who would run into the road to retrieve cigarette butts to eat them. She was deemed to be deprived of her liberty because of the extent of restrictions placed on her movements to protect her from serious harm.

'So when a situation is very black and white, the need for intervention is clear.

But a lot of adult social care practice is much more nuanced, and there is a lot of uncertainty generally about the difference between restriction and deprivation of liberty,' she says.

An important issue is whether individuals deprived of their liberty are told how it will affect them and informed of their rights, she says.

'There are quite a few people with significant learning difficulties or dementia, who are deemed to be incapable of understanding this. But that means more effort has to be made to make the information accessible, and I don't think that is happening.'

Care homes are less familiar with the need to provide information about rights than psychiatric hospitals, and could do with guidance and protocols, particularly as some people are likely to regain their mental capacity, she suggests.

An emerging picture is that those professionals interviewed think DOLS can be helpful. It remains to be seen whether the service users and relatives the research team will be interviewing agree.

**Project:** Liberty, equality and capacity: the impact of the Deprivation of Liberty Safeguards on social care practice and human rights

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