

**Report to:** CABINET  
ADULT SERVICES PANEL

**Date:** 5TH FEBRUARY 2009  
17TH MARCH 2009

**Subject:** DEPRIVATION OF LIBERTY SAFEGUARDING

**Report of:** EXECUTIVE DIRECTOR: HEALTH AND WELL BEING

**Contact officer:** SHARON EID 01942 827631 Ext 2631

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**Purpose / summary:** The report describes the new legislative requirements relating to the deprivation of liberty safeguards under the Mental Capacity Act (2005), and outlines proposals for implementation of the safeguards.

**Alternative options considered and reason for selecting the one recommended:** N/A

**Recommendation / decision:** Agree that Local Authority powers as the Supervisory body under the Mental Capacity Act 2005 are delegated to the Executive Director of Health and Well-being.

The decision will be made as a result of this report and will be published within 48 hours

**Key Decision:** This report does not involve a key decision. The decision made as a result of this report will be published within **48 hours** and cannot be actioned until **seven working days** have elapsed, i.e. before 17th February 2009.

**Risks / Implications:**

Financial:	Funding available through Mental Capacity Grant (£210K for 2009/2010).
Staffing:	DOL/MCA Co-ordinator will be appointed.
Policy:	Safeguarding.
Equal Opportunities - Has a Diversity Impact Assessment been conducted?	This policy is concerned with protecting the liberty of all individuals.
Wards affected:	All

**Property Implications – Does the proposal involve a reduction, addition or change to the Council’s asset base or its occupation?**

No

**If yes, have the property implications been agreed with the Corporate Property Officer?**

**Does this proposal have significant implications for the Council and the local population?**

A diversity impact assessment is not necessary at this stage, however, equality and diversity implications have been considered when producing this report.

**Does this proposal involve a new policy or procedure or significant changes to an existing policy or procedure?**

A diversity impact assessment is not necessary at this stage, however, equality and diversity implications have been considered when producing this report.

Has the Service Director - Borough Solicitor confirmed that the recommendations within this report are lawful and comply with the Council’s Constitution?

**Yes / No \***

Has the Service Director - Corporate Services confirmed that any expenditure referred to within this report is consistent with the Council’s budget?

**Yes / No \***

Are any of the recommendations within this report contrary to the Policy Framework of the Council?

**Yes / No \***

\* delete which applicable

**For Cabinet reports only :**

Categorisation of the report:	<b>X</b>
Discussion leading to a decision	
Monitoring	
Sharing for corporate understanding	

	<b>X</b>
Discussion	
Decision	<b>X</b>
Information	

**Tracking/Process:**

	Consultation	Ward Members	Partners
Panel	Overview & Scrutiny	Cabinet	Council
17.03.09		05.02.09	

There are no Background Papers to this Report within the meaning of Section 100D of the Local Government Act 1972.

Proper Officer Bernard Walker

Date 7<sup>th</sup> January 2009

## 1. **INTRODUCTION**

1.1 The European Court of Human Rights has highlighted that additional safeguards are needed for people who lack capacity and who in certain circumstances might be deprived of their liberty. The Government is addressing this issue by amending the Mental Capacity Act 2005. The deprivation of liberty safeguards will strengthen the rights of hospital patients and those in care homes, as well as ensuring compliance with the European Convention on Human Rights (ECHR).

## 2. **CONTEXT**

2.1 The context for the deprivation of liberty safeguards in the Mental Capacity Act 2005 is the government's commitment in the White Paper *Our Health, Our Care, Our Say* that people with ongoing care needs, whether their needs arise in older age, or through illness or disability, should be cared for in ways that promote their independence, well-being and choice. It follows from this that people should be cared for in the least restrictive regime practicable.

2.2 The Government does accept, however, that there will be some people who will need to be cared for in circumstances that deprive them of liberty because it is necessary to do so, be it in their best interests or in order to provide the care of treatment they need to protect them from harm. The Government does not consider that deprivation of liberty would be justified in large numbers of cases but recognises that such circumstances arise, for example for some people with severe autism, profound learning disabilities or dementia.

2.3 The aim of the deprivation of liberty safeguards is to provide legal protection for those vulnerable people who are deprived of their liberty (other than by detention under the Mental health Act 1983), to prevent arbitrary decisions to deprive a person of liberty, and to give rights to challenge deprivation of liberty authorisations. The safeguards apply to people who lack capacity to consent to care or treatment and who are suffering from a disorder of the mind. The Government expects that implementation of the safeguards will reduce the numbers of people deprived of their liberty in Care homes and hospitals.

2.4 The safeguards will come into effect from 1 April 2009. The principles of the Mental Capacity Act 2005 will apply to the operation of the safeguards, principally the requirement to act in the best interests of the person lacking capacity.

## 3. **APPLICATION OF DEPRIVATION OF LIBERTY SAFEGUARDS**

3.1 The deprivation of liberty safeguards will cover patients in hospitals and people in care homes registered under the Care Standards Act 2000, whether placed under public or private arrangements.

3.2 The safeguards will apply to people aged 18 and over who :  
– Suffer from a disorder or disability of mind; and

- Lack the capacity to give consent to the arrangements made for their care or treatment; and
  - For whom such care (in circumstances that amount to a deprivation of liberty within the meaning of the ECHR) is considered, after an independent assessment, to be a necessary and proportionate response in their best interests to protect them from harm.
- 3.3 The new procedure cannot be used to detain people in hospital for treatment of mental disorder in situations where the Mental Health Act 1983 could be used instead if they are thought to object to being in hospital or to treatment. This will mean that people who object will be treated in broadly the same way as people with capacity who are refusing treatment for mental disorder and who need to be detained as a result.
- 3.4 People who need to be covered by the deprivation of liberty safeguards will be mainly those with significant learning disabilities or elderly people suffering from dementia, but will include a minority of others who have suffered physical injury.
- 3.5 The deprivation of liberty safeguards do not introduce a new system for determining whether a person who lacks capacity to decide the matter for themselves should receive care or treatment. Nor do they provide any new power to take and convey people to hospitals or care homes. They are solely about ensuring that there are appropriate safeguards in place when it is deemed that a person who lacks the capacity to decide the matter for themselves needs to receive care or treatment, in their best interests, in a hospital or care home, in circumstances that deprive them of their liberty.
- 3.6 The Government believes that the vast majority of people lacking capacity who are deprived of their liberty will be in hospital or care home settings. It takes the view that Deprivation of Liberty of such people in other settings will only exceptionally be justifiable if it is the result of following an order by the Court of Protection on a personal welfare matter. The Mental Capacity Act 2005 makes Deprivation of Liberty unlawful in cases where there is neither a Deprivation of Liberty authorisation nor a relevant decision by the Court of Protection.

#### 4. **PROCESS FOR DEPRIVATION OF LIBERTY SAFEGUARDING**

- 4.1 Whenever a hospital or care home identifies that a person who lacks capacity is being, or risks being, deprived of their liberty, they must apply to the “supervisory body” for authorisation of deprivation of liberty. Where a person is in a care home, the supervisory body will be the relevant local authority.

Where the person is in a hospital, this will be the relevant Primary Care Trust or, if the Welsh Ministers or a Local health Board in Wales commissions the relevant care or treatment in England, the Welsh Ministers. The Mental Capacity Act 2005 will not permit someone being deprived of their liberty without such an authorisation (unless it is

a consequence of following a decision of the Court of Protection on a personal welfare question).

- 4.2 The process for application to the supervisory body is outlined in the attached briefing note (Appendix One). The Deprivation of Liberty Safeguards Policy and Procedural Guidelines for the Wigan Borough have been developed to assist staff in the implementation of the safeguards (A copy of the document is available for Members if they wish to see it).
- 4.3 The authorisation Process within the Wigan Borough will consist of the following:
- The supervisory body responsible for Authorising a Deprivation of Liberty from all hospitals including independent hospitals within the Wigan Borough will be Ashton, Leigh and Wigan Primary Care Trust.
  - The supervisory body responsible for Authorising a Deprivation of Liberty from all registered Care homes within the Wigan Borough will be Wigan Council. The recommendation is that the powers will be delegated to the Executive Director, Health and Well-being.

## 5. **TRANSITIONAL ARRANGEMENTS**

- 5.1 To ease the handling of the higher number of assessments that may be requested when the safeguards are implemented in April 2009, transitional arrangements will apply in respect of applications for authorisations received in April 2009. They will provide for an extension of the timescale for standard authorisation assessments from 21 days to 42 days, and from 7 days to 21 days where an urgent authorisation has been given.

## 6. **CONCLUSION**

- 6.1 Implementation of the attached policy relating to Deprivation of Liberty Safeguards under the Mental Capacity Act (2005) will ensure that the Council is compliant with legislative requirements.

**MENTAL CAPACITY ACT 2005**  
*Deprivation of liberty safeguards in England*

**Briefing Paper (WIGAN BOROUGH)**

**Setting the Scene**

The Mental Health Act 2007, which received Royal Assent in July 2007, as well as amending the Mental Health Act 1983, was used as the vehicle for introducing deprivation of liberty safeguards into the Mental Capacity Act (2005). This briefing Summary sets out information about the deprivation of liberty safeguards, and its proposed implementation in the Wigan Borough.

The amendments to the Mental Capacity Act 2005 both strengthen the protection of a very vulnerable group of people and tackle human rights incompatibilities, by introducing deprivation of liberty safeguards for people who lack capacity to decide about their care or treatment and who are deprived of their liberty to protect them from harm, but who are not covered by the Mental health Act 1983 safeguards.

**Key Points**

People who suffer from a disorder or disability of the mind, such as dementia or a profound learning disability and who lack the mental capacity to consent to the care or treatment they need, should be cared for in a way that does not limit their rights or freedom of action.

In some cases members of this vulnerable group need to be deprived of their liberty for treatment or care because this is necessary in their best interests to protect them from harm.

The European Court of Human Rights (ECtHR) in its October 2004 judgement in the Bournemouth case (HL v UK) highlighted that additional safeguards are needed for people who lack capacity and who might be deprived of their liberty.

The Government is closing the “Bournemouth gap” by amending the Mental Capacity Act 2005. The deprivation of liberty safeguards being introduced will strengthen the rights of hospital patients and those in care homes, as well as ensuring compliance with the European Convention on Human Rights (ECHR).

## **Introduction**

The context for the deprivation of liberty safeguards in the Mental Capacity Act 2005 is the government commitment in the White Paper *Our Health, Our Care, Our Say* that people with ongoing care needs, whether their needs arise in older age, or through illness or disability, should be cared for in ways that promote their independence, well-being and choice. It follows from this that people should be cared for in the least restrictive regime practicable.

The Government does accept, however, that there will be some people who will need to be cared for in circumstances that deprive them of liberty because it is necessary to do so, in their best interests, in order to provide the care of treatment they need to protect them from harm. The Government does not consider that deprivation of liberty would be justified in large numbers of cases but recognises that such circumstances arise, for example for some people with severe autism, profound learning disabilities or dementia.

The aim of the deprivation of liberty safeguards is to provide legal protection for those vulnerable people who are deprived of their liberty otherwise than under the Mental health Act 1983, to prevent arbitrary decisions to deprive a person of liberty and to give rights to challenge deprivation of liberty authorisations. The safeguards apply to people who lack capacity to consent to care or treatment and who are suffering from a disorder of the mind. The Government expects that implementation of the safeguards will reduce the numbers of people deprived of their liberty in Care homes and hospitals.

It is planned that the safeguards will come into effect from 1 April 2009. The principles of the Mental Capacity Act 2005 will apply to the operation of the safeguards, principally the requirement to act in the best interests of the person lacking capacity.

### **Who will be covered by deprivation of liberty safeguards?**

The deprivation of liberty safeguards will cover patients in hospitals and people in care homes registered under the Care Standards Act 2000, whether placed under public or private arrangements.

The safeguards will apply to people aged 18 and over who:

- Suffer from a disorder or disability of mind; and
- Lack the capacity to give consent to the arrangements made for their care or treatment; and

- For whom such care (in circumstances that amount to a deprivation of liberty within the meaning of the ECHR) is considered, after an independent assessment, to be a necessary and proportionate response in their best interests to protect them from harm.

The new procedure cannot be used to detain people in hospital for treatment of mental disorder in situations where the Mental Health Act 1983, could be used instead if they are thought to object to being in hospital or to treatment.

This will mean that people who object will be treated in broadly the same way as people with capacity who are refusing treatment for mental disorder and who need to be detained as a result.

People who need to be covered by the deprivation of liberty safeguards will be mainly those with significant learning disabilities or elderly people suffering from dementia, but will include a minority of others who have suffered physical injury.

### **What are the deprivation of liberty safeguards**

Whenever a hospital or care home identifies that a person who lacks capacity is being, or risks being, deprived of their liberty, they must apply to the “supervisory body” for authorisation of deprivation of liberty. Where a person is in a care home, the supervisory body will be the relevant local authority. Where the person is in a hospital, this will be the relevant Primary Care Trust or, if the Welsh Ministers or a Local health Board in Wales commissions the relevant care or treatment in England, the Welsh Ministers. **The Mental Capacity Act 2005 will not permit someone being deprived of their liberty without such an authorisation (unless it is a consequence of following a decision of the Court of Protection on a personal welfare question).**

The deprivation of liberty safeguards do not introduce a new system for determining whether a person who lacks capacity to decide the matter for themselves should receive care or treatment. Nor do they provide any new power to take and convey people to hospitals or care homes. They are solely about ensuring that there are appropriate safeguards in place when it is deemed that a person who lacks the capacity to decide the matter for themselves needs to receive care or treatment, in their best interests, in a hospital or care home, in circumstances that deprive them of their liberty.

- The deprivation of Liberty Safeguards Code of Practice guidance identifies factors to consider to help managers assess whether a person is at risk of deprivation of liberty.

- If a person is at risk of deprivation of liberty, consideration should always be given to the less restrictive alternatives.
- Interim guidance about assessment, care planning and monitoring to avoid deprivation of liberty where possible was issued by the Department of Health in December 2004, following the October 2004 ECtHR judgement. This has been followed up by the Code of Practice guidance that care homes and hospitals will need to follow in order to avoid unlawful deprivation of liberty.
- An authorisation should be requested – and the outcome implemented – by the hospital or care home where the person is.
- Regulations have set out the information to be provided with a request for authorisation.
- Authorisation should be obtained in advance except in circumstances where the need is thought to be urgent. In an emergency, the hospital or care home may issue an urgent authorisation, giving their reasons in writing, and a standard authorisation must be obtained before the expiry of the urgent authorisation. An urgent authorisation can be for a maximum of 7 days but may be extended by the supervisory body for up to a further 7 days in exceptional circumstances.
- Anyone with a concern, e.g. a family member, can apply to the supervisory body to trigger an assessment of whether a person is deprived of liberty, if they have asked the care home or hospital to apply for an authorisation but it has not been done. This would lead on to the full assessment process if the finding is that the person is deprived of liberty.
- When a supervisory body receives a request for authorisation of deprivation of liberty they must obtain 6 assessments. **These assessments must usually be completed within 21 days of the supervisory body receiving the request for the authorisation but, if an urgent authorisation has been given, the assessments must be completed before the expiry of the urgent authorisation.**

**The assessments are:**

- 1) **Age Assessment** – the person is aged 18 or over.
- 2) **No refusals assessment** – the authorisation sought does not conflict with a valid decision by a donee of lasting power of attorney (“an attorney”), or by a deputy appointed for the person by the Court of Protection (a “deputy”), and is not for the purpose of giving treatment that would conflict with a valid and applicable advance decision made by the person.
- 3) **Mental capacity assessment** – the person lacks capacity to decide whether to be admitted to, or remain in, the hospital or care home.

- 4) **Mental health assessment** – the person is suffering from a mental disorder within the definition of the Mental Health Act (1983) Amendments to the Act (2007).
- 5) **Eligibility assessment** – a person is eligible unless they are:
  - detained under the Mental Health Act 1983,
  - subject to a requirement under the Mental Health Act 1983 that conflicts with the authorisation sought e.g. a guardianship order requiring them to live somewhere else,
  - subject to powers of recall under the Mental Health Act 1983.

Or

- unless the application is to enable mental health treatment in hospital and they object to being in hospital or to the treatment in question. In deciding whether a person objects, their past and present behaviour, wishes, feelings, views, beliefs and values should be considered where relevant.
- 6) **Best interests assessment** – the proposed course of action would constitute a deprivation of liberty and it is:
    - in the best interests of the person to be subject to the authorisation, and
    - necessary in order to prevent harm to them; and
    - a proportionate response to the likelihood of suffering harm and the seriousness of that harm.
    - Regulations set out who can carry out the assessments. The regulations cover, among other things, the qualifications, skills and training needed to be an assessor, the need for there to be at least two assessors (best interests and mental health assessments must be carried out by different assessors), and the need for the best interests assessor to be independent of the admissions/care planning process.
    - The best interests assessor will be required to take into account the views of:
      - Anyone named by the person as someone to be consulted;
      - Anyone engaged in caring for the person or interested in his or her welfare;
      - Any attorney; and
      - Any deputy.

- The best interest's assessor may recommend conditions to be attached to any authorisation issued, for example steps to be taken to keep contact with family or to ensure cultural or faith-based needs are met.
- The Code of Practice Guidance covers the importance of needs assessment and care planning (including the Single Assessment Process, Person Centred Planning, Care Programme Approach and Unified Assessment as relevant) and the best interest's assessment must take account of such needs assessment and care plans.
- In line with the provisions of the Mental Capacity Act 2005, anyone who does not have family or friends who can be consulted will have an Independent Mental Capacity Advocate (IMCA) instructed to support and represent them during the assessment process.
- If any of the assessments conclude that the person does not meet the criteria for an authorisation to be issued, the supervisory body must turn down the request for authorisation.
  - The supervisory body must inform the hospital or care home management, the person concerned, any IMCA instructed and all interested persons consulted by the best interest's assessor of the decision and the reasons for it.
  - If the best interest's assessor considers that the person is already deprived of liberty, the supervisory body must draw this fact to the attention of the same group of people. This is so that all with an interest are aware that the person may not lawfully be deprived of their liberty.
  - Where it is decided that it is not in a person's best interests to be deprived of liberty in a particular Home or hospital, steps will need to be taken to find an alternative way of providing the care they require.
- If the authorisation is for detention to enable life sustaining treatment or treatment believed necessary to prevent a serious deterioration in the person's condition, and there is a question about whether it may lawfully be granted, it will not be unlawful to detain the person while a decision is sought from the Court of Protection.
- The duration of any authorisation will be assessed on a case-by-case basis, taking account of the individual's circumstances. If the best interest's assessor concludes that deprivation of liberty is necessary in a person's best interests to protect them from harm, they will be required to recommend the time period of the

authorisation, taking account of the possibility of circumstances changing. The maximum period for an authorisation would be 12 months but it is expected that authorisations would be for shorter periods in many cases.

- If the best interests assessor concludes that deprivation of liberty is necessary in a person's best interests to protect them from harm, they will be required to recommend who would be the best person to be appointed as the "relevant person's representative" in order to represent the person's interests. The person concerned may choose their own representative if they have capacity to do so. Alternatively, if there is an attorney or deputy with the appropriate authority, they may select a person to be the representative. Otherwise, the best interest's assessor will consider whether there is someone among those they have consulted who would be suitable. Regulations set out the detailed provisions for the selection and appointment of relevant person's representatives.
- If all the assessments conclude that the person meets the criteria for an authorisation to be issued, the supervisory body must grant the request for authorisation of deprivation of liberty. The time period of an authorisation may not be longer than recommended by the best interests assessor and may not be longer than 12 months.
- authorisation must be in writing and include the purpose of the deprivation of liberty, the time period, any conditions attached and the reasons that each of the qualifying criteria are met.
- The supervisory body must give a copy of the authorisation to the hospital or care home managers, the person concerned, any IMCA instructed and all interested persons consulted by the best interest's assessor.
- The role of the relevant person's representative is to keep in touch with the person, to support them in all matters concerning the authorisation, and to request a review or to make an application to the Court of Protection on their behalf where necessary.
- If there is no one available among friends or Family, then the supervisory body will appoint a person, who may be paid, to act as the representative for the duration of the authorisation.
- hospital and care home managers will have a duty to:
  - take all practical steps to ensure that the person concerned and their representative understand what the authorisation means for them and how they can apply to the Court of Protection or request a review.

- ensure that any conditions attached to the authorisation are met; and
  - monitor the individual's circumstances as any change may require them to request that the authorisation is reviewed.
- The hospital or care home can apply for a further authorisation when the authorisation expires, in which case the procedures above would be repeated.
- A review may be carried out while an authorisation is in place for the following reasons:
  - The hospital or care home requests a review because the person's circumstances have changed.
  - The person or their representative requests a review.
- The supervisory body must conduct a review if asked to do so as above. Assessments would be carried out for any of the criteria for authorisation affected by any change of circumstances. The outcome of the review may be to terminate the authorisation, vary the conditions attached or change the reason recorded that the person meets the criteria for authorisation. The hospital or care home, the person concerned and their representative must be informed of the outcome of a review.
- The person concerned, or the person appointed as their representative, or an attorney or deputy, can at any time request that an authorisation be reviewed by the supervisory body and also has the right to make an application to the Court of Protection to challenge a decision to authorise deprivation of liberty at any time. Where an IMCA is instructed, they can provide support with a review or with an application to the Court of Protection. Any other person may apply to the Court of Protection for permission to challenge a decision to deprive someone of their liberty. Legal Aid will be available for challenges by the person deprived of liberty or their representative to the Court of Protection.
- The Government believes that the vast majority of people lacking capacity who are deprived of their liberty will be in hospital or care home settings. It takes the view that Deprivation of Liberty of such people in other settings will only exceptionally be justifiable if it is the result of following an order by the Court of Protection on a personal welfare matter. The Mental Capacity Act 2005 makes Deprivation of Liberty unlawful in cases where there is neither a Deprivation of Liberty authorisation nor a relevant decision by the Court of Protection.

- In developing the deprivation of liberty safeguards, the Government has sought to minimise new burdens arising from the safeguards, but some will inevitably arise. Government funding will be provided to meet the additional costs to the NHS and local authorities of the assessments required by the Deprivation of Liberty Safeguards.

### **Transitional arrangements**

To ease the handling of the higher number of assessments that may be requested when the safeguards are implemented in April 2009, transitional arrangements relating to the timescale for the assessment process will be placed before Parliament. The transitional arrangements will apply in respect only of applications for authorisations received in April 2009. They will provide for an extension of the timescale for standard authorisation assessments from 21 days to 42 days, and from 7 days to 21 days where an urgent authorisation has been given.

### **The Authorisation Process for Wigan**

Following the development of an Implementation Plan which was approved by the Project Implementation Board the plan identified specific workstream groups. These groups consisted of representatives from statutory and independent providers, health and social care commissioners and service User/Carer groups. The aim of the workstream groups was to develop action plans and to achieve the identified tasks, considered essential in the implementation process.

The action plans surrounded training needs, the views/involvement of User/Carer and Black and Minority Ethnic groups and the authorisation process. To assist in the process of identifying resource needs a scoping exercise was undertaken to identify potential Deprivation of Liberty Practices within a number of registered Care homes and hospital in-patient wards within the Wigan Borough.

The information was also used to assist in the resource planning of the safeguards with the Wigan Borough.

The Deprivation of Liberty Safeguards Policy and Procedural Guidelines for the Wigan Borough has been developed to assist staff in the implementation of the safeguards.

The intention is to launch the policy and procedural guidelines to care and support staff following the approval process.

The authorisation Process within the Wigan Borough will consist of the following:

- The supervisory body responsible for Authorising a Deprivation of Liberty from all hospitals within the Wigan Borough will be the Ashton, Leigh and Wigan Primary Care NHS Trust.
- The supervisory body responsible for Authorising a Deprivation of Liberty from all registered Care homes and Independent hospitals within the Wigan Borough will be the Wigan Department of Adult Services (Local Authority).

**The above individual supervisory body responsibility cannot be delegated.**

- The Mental Capacity Act/Deprivation of Liberty Safeguards Co-ordinator will co-ordinate all requests for standard authorisations/reviews and will ensure that the appropriate supervisory body is responsible for considering requests for authorisations, commissioning the required assessments and where all the assessments agree, Authorising the Deprivation of Liberty
- The MCA/DOLS Co-ordinator will, in addition, arrange the IMCA (if required) and the professional representative via the Advocacy Provider.
- The supervisory body via the MCA/DOLS Co-ordinator will monitor and record all requests and authorisations given and make available all information to the Monitoring/Regulatory Body.

# AUTHORISATION PATHWAY FOR THE WIGAN BOROUGH

Care Home/hospital have concern(s) surrounding possible restrictions of liberty which could be amounting to a deprivation of liberty

Care Home/hospital to contact the MCA/DOLS Co-ordinator or designated deputies (Reviewing Team) who will undertake an initial screening of the restriction(s) of liberty imposed by the Care Home/hospital

**If no deprivation of liberty is occurring** or has been planned to occur and the Care Home/hospital has made corrective action(s) to reduce the restriction(s) of Liberty recommended by the MCA/DOLS Co-ordinator and Review Team (DOLS).

The care plan will be reviewed and monitored by the Review Team as part of the Reviewing process

**If a deprivation of liberty is occurring or intending to occur within the next 28 days** the Care Home/hospital must either apply for a standard authorisation or give itself an urgent authorisation, then apply for a standard authorisation. The application(s) for standard authorisation(s) must be to the Wigan (DOLS) Authorisation/Review Panel

On receipt of the standard (DOLS) Authorisation Request the MCA/DOLS Co-ordinator will:

- Arrange the mental health assessor assessment.
- Arrange the Best Interest Assessor Assessment.
- Refer to the DOLS IMCA to be appointed if the person has no one other than paid care staff to represent them.
- Arrange for all assessments/care plans to be made available to the Best Interest-Assessor.
- Arrange and co-ordinate the Wigan (DOLS) Authorisation/Review Panel.

- Monitor and record all requests and authorisations given and make available all information to the monitoring/Regulatory Body, on behalf of the Wigan (DOLS) Authorisation/Review Panel.
- Make available all assessments and the recommendations of the Best Interest Assessor to the Wigan (DOLS) Authorisation/Review Panel.
- Ensure that standard authorisation(s) are delivered to the Care Home/hospital managing authorities and that a review date is established with copies to the IMCA Representative and Review Team (DOLS).
- Maintain liaison / with the Care Home(s)/ hospital(s).