



Queen Victoria Hospital
NHS Foundation Trust

Deprivation of Liberty Safeguards and you



What is the Mental Capacity Act?

The Mental Capacity Act is a law about making decisions and what to do when people cannot make some decisions for themselves. The Deprivation of Liberty Safeguards are part of the Mental Capacity Act 2005.

When a patient cannot make a decision for themselves, this is called lacking capacity.

The Mental Capacity Act tells doctors and nurses how to find out if you can make your own decisions.

You might be able to make some decisions, but not able to make other decisions.

Doctors and Nurses will need to find out:

- which decisions you can make on your own
- which decisions you might need some help with, and
- which decisions you cannot make yourself.

The Mental Capacity Act tells doctors and nurses how to help you to make decisions for yourself, if you can.

The Mental Capacity Act tells doctors and nurses what to do if you cannot make some of your own decisions (if you are lacking capacity).

The Deprivation of Liberty Safeguards only apply to people who are lacking capacity.

Sometimes patients need treatment or care from doctors and nurses or care workers. If you are, staying in a hospital or living in a care home you should be treated or cared for in a way that means you are safe. You should be free to do the things they want to do.

If doctors and nurses need to keep you in hospital for your treatment the Government has made rules to make sure that you can be cared for or treated in a way that is right. These rules are called the Mental Capacity Act 2005 Deprivation of Liberty Safeguards.

Why do Hospitals use Deprivation of Liberty Safeguards?

Sometimes you may need treatment or care from doctors and nurses or care workers if you are staying in a hospital.

Patients who are lacking capacity need extra protection.

You should be treated or cared for in a way that means you are safe and are free to do the things you want to do.

If you are stopped from doing the things you want all the time, this is called being deprived of your liberty. Sometimes a patient having treatment or care might be deprived of their liberty to keep them safe so that the treatment is completed.

If this happened to you it would have to be in your best interests. Doctors, nurses and care workers would have to think very carefully about the decisions they make for you, to make sure those decisions are good for you. (You can find out more about what this means in the Mental Capacity Act.)

If you are deprived of your liberty you need special protection called safeguards to make sure you are looked after properly and are kept safe. The Deprivation of Liberty Safeguards are the way to give you the special protection you need if you have to stay in hospital.

What is deprivation of liberty?

Liberty means being free to do the things you want to do, when you want to do them.

There is no list of what a deprivation of liberty is, but examples include:

Staff in a care home or hospital having control over all of the decisions in your life

Not being allowed to leave the hospital where you are staying or the care home where you live

Your family, carers or friends not being allowed to come and see you.

Deprivation of liberty is about:

The way that other people care for you and treat you

The way you feel about the way that people care for you and treat you

The way that the people who care for you and treat you can stop you doing all the things you enjoy.

If you are stopped from doing the things you want all the time in a hospital or care home, this is called being deprived of your liberty. If you are being cared for and treated in this way you must have a special agreement called a Deprivation of Liberty Safeguards Authorisation to keep you safe.

This is the law.

When is a Deprivation of Liberty Safeguard used?

The Deprivation of Liberty Safeguards are for patients who cannot make a decision about the way they are being treated or cared for in a hospital or care home, where other people are having to make this decision for them.

Deprivation of Liberty Safeguards are the way to give you the protection you need when you are being cared for or treated in ways that deprive you of your liberty.

The Deprivation of Liberty Safeguards are for:

Patients living in England or Wales

Patients who are 18 years old or older

Patients who have a mental disorder such as dementia (a sort of mental illness) or a learning disability

Patients who live in a care home or are staying in hospital, who are lacking capacity to agree to be there. (The patients need to be there to get the treatment or care that will protect them from harm in their best interests.)

What happens if you are being deprived of your liberty?

There is a book of rules that explains what should happen. This is called the Code of Practice and tells the doctors and nurses involved what to do.

The Code of Practice says that the doctors and nurses who are caring for or treating you are called the managing authority. If the managing authority thinks they need to deprive you of your liberty, they must make sure they are not breaking the law.

The managing authority must write to something called the supervisory body (your local council or health trust) to tell them that they think you need Deprivation of Liberty Safeguards.

The Deprivation of Liberty Safeguards should be for as short a time as possible.

If you think you should not be deprived of your liberty whilst in hospital ask to speak to a doctor or nurse so that your situation can be assessed. You may have a friend or family member as your representative so that they can ask questions on your behalf.

If you or your representative disagree about you being deprived of your liberty, you can ask a special court called the Court of Protection to decide whether you should be deprived of your liberty or not.

How to appeal against being deprived of your liberty under the Deprivation of Liberty Safeguards

If you (or your representative) are reading this because you are deprived of your liberty, you can contact the Court of Protection at:

**The Court of Protection Customer Services Archway Tower 2
Junction Road London N19 5SZ**

Telephone: 0845 330 2900 (Phone lines are open from 9am–5pm)

Fax: 020 7664 7551

Email: customerservices@publicguardian.gsi.gov.uk



Please ask if you
would like this leaflet
in larger print or an
alternative format.

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