



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, this is called lacking capacity. The Deprivation of Liberty Safeguards only applies to people who are lacking capacity.

The **Deprivation of Liberty Safeguards** are part of the Mental Capacity Act 2005. The Act tells other people 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.

People will need to find out:

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

Why do we need the Deprivation of Liberty Safeguards?

Sometimes you may need treatment or care from people like doctors, 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 and are free to do the things you want to do, people who are lacking capacity need extra protection. If you are deprived of your liberty you need special protection called safeguards, the Deprivation of Liberty Safeguards are the way to give you the special protection you need.

What is a 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 some 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 continuously stopped from doing the things you want to do in a hospital or care home, this is called, being deprived of your liberty, if you are being treated in this way, you must have by law a special agreement called a Deprivation of Liberty Safeguards Authorisation to keep you safe.

When will the Deprivation of Liberty Safeguards be used?

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:

- People living in England or Wales,
- People who are 18 years old or older.
- People who have a mental disorder such as dementia or a learning disability.
- People who live in a care home or are staying in hospital, who are lacking capacity to agree to be there. (The people 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 called the Code of Practice that explains and tells the people involved what to do.
- The Code of Practice says that the people who are caring 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 the supervisory body (which will be your local council or health trust) to tell them what they think you need.

The Code of Practice says the supervisory body must decide if you need Deprivation of Liberty Safeguards, they will do this by arranging for at least two people to check how you are being treated or cared for, these people are called assessors.

One assessor is called the Best Interests Assessor, the assessor will be a person who does not work with you, they will write a report to tell the supervisory body if you need a Deprivation of Liberty Safeguards Authorisation and for how long this should be, the authorisation should be for as short as time as possible and never longer than a year.

What will happen after the Best Interests Assessor's report?

The Best Interests Assessor's report might say you are being deprived of your liberty and that this is in your best interests, the supervisory body will write to the managing authority to tell them and ask them to explain this to you. You will get a Deprivation of Liberty Safeguards Authorisation to make sure you are safe, or the report might say you are being deprived of your liberty but some changes are needed, for example; changes to the way you are cared for.

What will happen if I get Deprivation of Liberty Safeguards?

Everyone who has a Deprivation of Liberty Safeguards Authorisation must have a representative. The supervisory body will make sure you get a representative, the representative is a person who does not work with you; they visit you and check you are looked after in a way that means you are safe; your representative could be a member of your family or a friend. If you or anyone else is unhappy about you being deprived of your liberty, they can ask for a review there will also be a review if your situation changes. 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.

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