

Deprivation of Liberty Procedures (Appendix A)

Failed Assessment Table

Assessment Failed	Action
Age	<p>If the Relevant Person is less than 17 years and 11 months, Deprivation of Liberty cannot be authorised. The Best Interest Assessor and Managing Authority and other people involved will need to decide what actions are most appropriate.</p> <p>Consideration should be given to changing the regime so that authorisation is not necessary.</p> <p>Consideration should be given to use of The Children Act 1989 or Mental Health Act 1983 to provide a framework for provision of services.</p>
Mental Health	<p>If the Relevant Person is found not to have a Mental Disorder there is a range of possible effects. Clearly the Mental Health Act will not provide an alternative to DOLS. The most likely option is to alter the care plan so that no deprivation of liberty takes place.</p>
Mental Capacity	<p>If the Relevant Person is found to have mental capacity to decide on their accommodation or treatment/care regime, DOLS cannot be used.</p> <p>Consideration may be given to using the Mental Health Act 1983 or the care plan should be adjusted so that no deprivation of liberty is taking place.</p> <p>The Relevant Person should be supported to make decisions for themselves.</p>
Eligibility	<p>A person may be found not to be eligible for two reasons –</p> <ul style="list-style-type: none"> • If they are already under a section of the Mental Health Act, then the powers of the MHA should be used rather than DOLS. • If the person is found to be more appropriate for the Mental Health Act, the assessment should take place without delay.
No Refusals	<p>If there is someone with power to make decisions on behalf of the Relevant Person, they should make the decision and no authorisation would then be necessary. If it were felt that the attorney or deputy was not acting in the Relevant Person's best interests, this should be raised with the Office of the Public Guardian or Court of Protection or be treated as a safeguarding issue.</p> <p>If the Relevant Person had made an Advance Decision refusing an important element of the treatment that the deprivation of liberty was intended to deliver, no authorisation would be possible and the refused treatment could not be given.</p> <p>If possible, the care plan should be altered. Use of the Act may be considered.</p>
Best Interests	<p>If all the criteria for authorisation are met but the decision-maker feels that authorisation would not be in the Relevant Person's best interests, there is no alternative to changing the care plan so no deprivation of liberty takes place.</p>