

Deprivation of liberty safeguards (DOLS) in UHS

You will know that following the judgement in Cheshire West, there has been discussion over whether *any incapacitated patient who is both (i) under constant control and supervision of the hospital, and (ii) not free to leave* must automatically be subject to an application for DOLS authorisation. The italicised words are described as **the acid test**.

You will appreciate that on this basis, many of the patients in the hospital would need to have an automatic DOLS authorisation sought on their behalf. We anticipate a change in the law to deal with this anomaly, since neither the acute hospitals nor the local authorities are equipped to deal with this volume of applications. In the meantime, as described in the linked DCL bulletin, unintended harm may flow from the use of the acid test. Our Trust Board has thus decided the following arrangements for any patient who may, during their hospital stay, be under our constant control and supervision of the hospital; and not free to leave.

Any patient who has capacity to consent for their proposed procedure on admission is also asked to agree to any necessary temporary deprivation of their liberty which might flow from their treatment. Providing this agreement is given, and documented, no application for DOLS authorisation is necessary in this group.

In many patients whose incapacity has coincided with the illness that has caused them to come into hospital, their incapacity is clinically explicable by their physical illness. On recovery from their illness, they would be expected rapidly to recover their capacity. In this patient group, we are not making automatic applications.

Incapacitated patients who arrive at UHS accompanied by friends or relatives or associates should not have an automatic application for DOLS made, even if they pass the acid test threshold, providing their accompanying persons agree to the deprivation. But if any hint of disagreement or concern relating to deprivation of liberty emerges from either clinicians or relatives, an application for DOLS authorisation should be sought

Equally, all other unbefriended incapacitated patients MUST have an automatic authorisation if they pass the acid test in *Cheshire*.

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