A CHECKLIST TO HELP DECIDE THE NEED FOR A DOLS AUTHORISATION

**How do the safeguards relate to the rest of the Mental Capacity Act 2005?**

Mental Capacity Act 2005 Code of Practice, ch1, p15 states:

‘The deprivation of liberty safeguards are in addition to, and do not replace, other safeguards in the Mental Capacity Act 2005. This means that decisions made, and actions taken, for a person who is subject to a deprivation of liberty authorisation must fulfil the requirements of the Act in the same way as for any other person. In particular, any action taken under the deprivation of liberty safeguards must be in line with the principles of the Act:

A person must be assumed to have capacity to make a decision unless it is established that they lack the capacity to make that decision. The Mental Capacity Act – Deprivation of liberty safeguards

A person is not to be treated as unable to make a decision unless all practicable steps to help them to do so have been taken without success.

A person is not to be treated as unable to make a decision merely because they make an unwise decision.

An act done or decision made, under the Act for or on behalf of a person who lacks capacity must be done, or made, in their best interests.

Before the act is done, or the decision is made, regard must be had to whether the purpose for which it is needed can be as effectively achieved in a way that is less restrictive of the person’s rights and freedom of action’.

Before deciding whether an application for authorisation is needed; the following factors, although not exhaustive, should be taken into account:

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| Does the person have a mental disorder affecting the brain or mind e.g. mental illness, brain injury, learning disability and lacks capacity to consent to their admission? | Yes  | No |
| Are they prevented from leaving the accommodation without supervision, would they be found and returned if they left the premises? |  |  |
| Are measures in place to limit freedom of movement e.g. locked doors, keypads, bed rails, including electric devices for monitoring movement and physical interventions applied? |  |  |
| Is the person under continuous supervision and are unable to consent to their care and treatment? |  |  |
| Are restrictions frequently used for prolonged periods and have a significant impact on the person to the point where they object or appear distressed? |  |  |
| Are the restrictions necessary and proportionate to protect the person from serious harm and considered to be in their best interest?  |  |  |
| Is the person subject to any powers of the Mental Health Act, Guardianship that would conflict with DoLS? |  |  |
| Does the person have any other valid/legal decision making authorities that would conflict with DoLS authorisation? |  |  |
| Is it possible to reduce the restrictions to prevent a deprivation of liberty? |  |  |
| Is medication used as a means of controlling the persons challenging behaviour? |  |  |
| Are there restrictions in place regarding contact with family and friends? |  |  |

This list can be broken down into individual component if needed. For more information, see ( DoLS Code of Practice Ch3, p30)