

From the Office of David Flory CBE  
Deputy NHS Chief Executive



Richmond House  
79 Whitehall  
London  
SW1A 2NS  
Tel: 020 7210 2748  
David.flory@dh.gsi.gov.uk

PCT Chief Executives  
NHS Chief Executives

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Dear Colleague,

**Patients who lack capacity to consent to restrictions that might amount to deprivation of liberty but which are in their best interests: The CQC Report on the safeguards provided by the Deprivation of Liberty Safeguards (DOLS).**

I am writing to let you know that the CQC has recently published a report suggesting that there is still, within the NHS, a lack of awareness, a lack of training and a lack of understanding, about when the Mental Capacity Act DOLS framework should be used, to protect the rights of people who may need to be deprived of liberty in order to receive necessary care or treatment.

There is also significant under-reporting by registered providers, by hospitals, of notifications that they are required to make to CQC.

A copy of the report can be found at:

<http://www.cqc.org.uk/dolsreport>

A copy of the MCA and DOLS Codes of Practice can be found at:

<http://webarchive.nationalarchives.gov.uk/+http://www.dca.gov.uk/legal-policy/mental-capacity/mca-cp.pdf>

[http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH\\_085476](http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_085476)

A copy of the CQC guidance on notification of DOLS activity can be found at:  
<http://www.cqc.org.uk/node/2283>

## **The Purpose of the Deprivation of Liberty Safeguards**

The Safeguards came into effect in 2009. They create a legal framework to protect the human rights of adults who require treatment in a hospital in conditions that might amount to a deprivation of liberty but are unable to consent to these restrictions. People who need these Safeguards typically include those with severe learning disabilities, people suffering from dementia and people with brain injuries.

All hospitals are 'managing authorities' under the Deprivation of Liberty Safeguards and hospital staff must apply to their PCT, and notify the CQC, if they think that a patient needs to be deprived of their liberty for treatment or care in their best interests. Appropriate staff need to know when and how to request a DOLS authorisation. PCTs need to continue to encourage, facilitate and audit awareness and compliance with the MCA DOLS in all hospital settings.

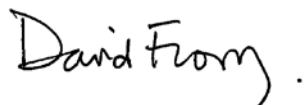
The CQC report highlights:

- The clear value of such a system of Safeguards;
- Large variations in practice across the country
- Some apparent low levels of training of staff
- Lack of clarity about when the Safeguards might be needed.

MCA practitioners and legal advisers in hospitals need to be supported and funded to be able to ensure that there is widespread compliance with all aspects of the MCA including DOLS, and that all departments within hospitals know when to request authorisation, how to do so, and who within the organisation is responsible for the processes including that of notifications to CQC.

I should be grateful for your help in bringing the publication of the CQC Report on DOLS to the attention of all those in your organisation who are involved in the commissioning or provision of health services. This is of relevance to all.

Yours



**David Flory**  
**Deputy NHS Chief Executive**