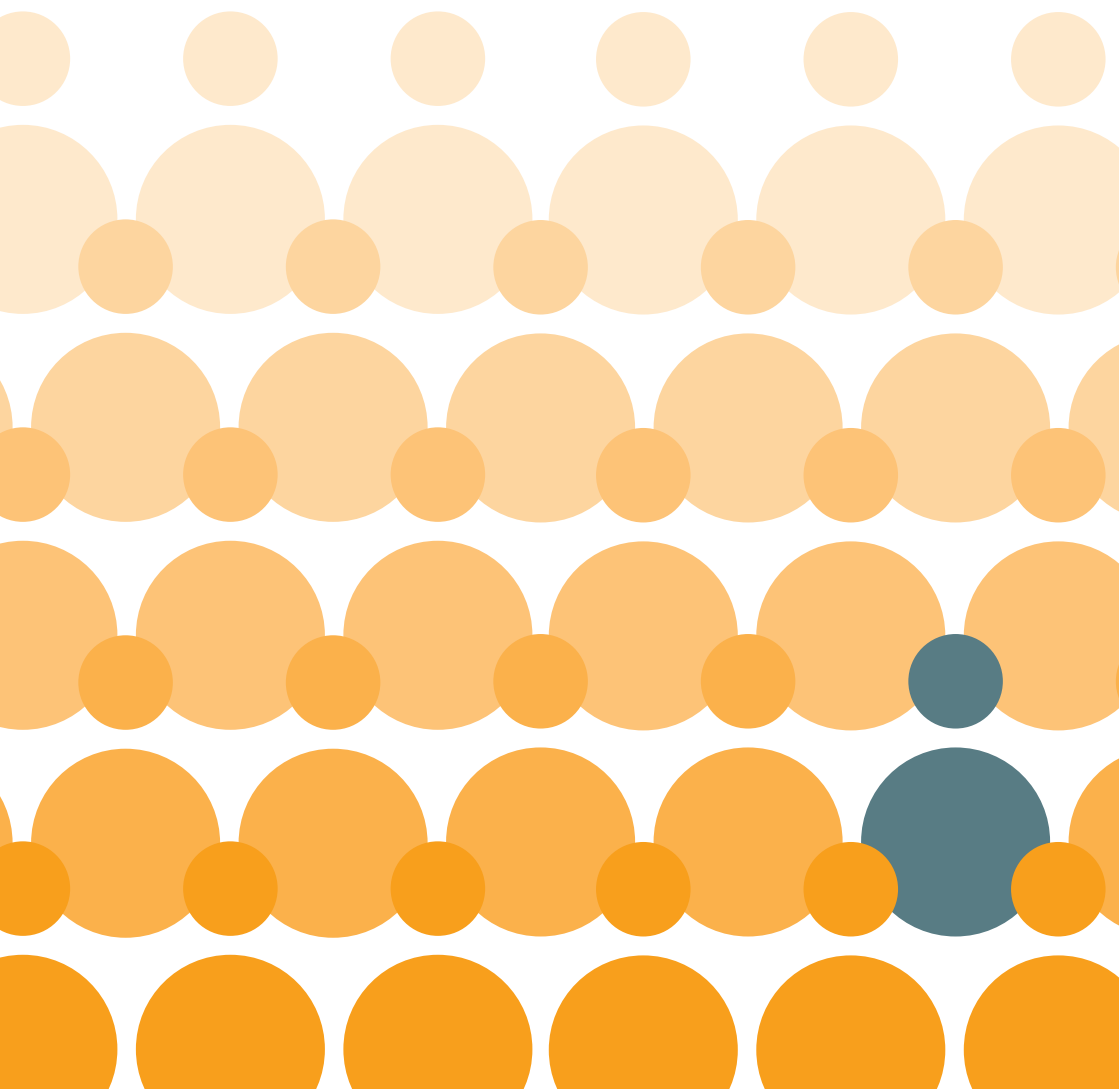


All about the  
**Deprivation of Liberty Safeguards  
and You**





## What is the Mental Capacity Act?

The Deprivation of Liberty Safeguards will be part of The Mental Capacity Act 2005 from April 2009. The *Mental Capacity Act* is a law about making decisions and what to do when people cannot make some decisions for themselves.

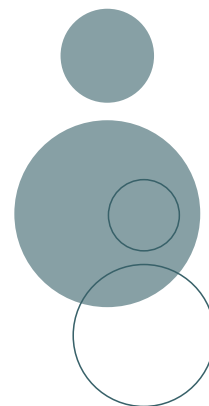
When people cannot make a decision for themselves this is called *lacking capacity*.

The Mental Capacity 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 you might need some help with, and which decisions you cannot make yourself.

The Mental Capacity Act tells people how to help you to make decisions for yourself if you can.

The Mental Capacity Act tells people what to do if you cannot make some of your own decisions (if you lack capacity).

**The Deprivation of Liberty Safeguards only apply to people who are lacking capacity.**



### **If you want to know more about the Mental Capacity Act:**

You can read a booklet from the Office of the Public guardian called:

#### **Making decisions: an easy read guide**

<http://www.publicguardian.gov.uk/docs/making-decisions-opg605-1207.pdf>

You can watch a DVD from The Home Farm Trust called :

#### **The Mental Capacity Act 2005 Explained**

<http://www.hft.org.uk/>



## Why have the Deprivation of Liberty Safeguards been written?

Sometimes people need treatment or care from people like doctors and nurses or care workers. People who are living in a hospital or care home should be treated or cared for in a way that means they are safe and are free to do the things they want to do.

In 1997 a man with autism and learning disabilities was being cared for in a hospital. He was not able to make the decision himself about whether he should stay in hospital or go home.

The hospital did not agree with the carers as the staff believed he needed to be in hospital to receive the care he needed.

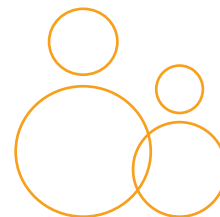
The carers asked an important Court in Europe to decide who was right.

The Court agreed with the carers and said the hospital was wrong. They said the hospital had broken the law because he had been deprived of his liberty without any safeguards. This case was called HL v the UK (often called Bournemouth).

The Government decided that they did not want this to happen again to other people.

The Government have made new rules to make sure that people can be cared for or treated in a way that is right and keeps the law. These rules are called the *Mental Capacity Act 2005 Deprivation of Liberty Safeguards*.

The Government say that the Mental Capacity Act 2005 Deprivation of Liberty Safeguards are a way to make sure people are cared for and treated in the right way.





## Why do we need the Deprivation of Liberty Safeguards?

Sometimes you may need treatment or care if you are living in a hospital or care home.

People who are lacking capacity need extra protection.

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.

If you are stopped from doing the things you want all the time this is called being *deprived of your liberty*.

Sometimes people having treatment or care might be deprived of their liberty to keep them safe.

If this happened to you it would have to be in your best interests and people would have to think very carefully about the decisions they make for you, to make sure those decisions are good for you.

If you are deprived of your liberty you need special protection to make sure you are looked after properly and are kept safe.

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 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 care home or hospital where you live
- Your family, carers or friends not being allowed to come and see you

It is about the way that other people care for you and treat you.

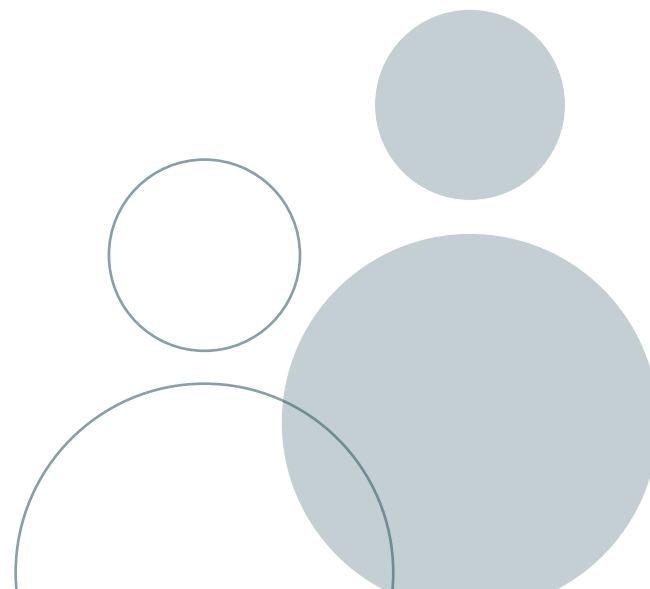
It is about the way you feel about the way that people care for you and treat you.

It is about the way that the people who care for you and treat you can stop you doing all the things you enjoy.

If you are stopped from doing the things you want all the time in a hospital or care home this is called being deprived of your liberty.

If you are being cared for and treated in this way you have to have a *Deprivation of Liberty authorisation* to keep you safe.

This is the law.







## When will the Deprivation of Liberty Safeguards be used?

**The Deprivation of Liberty Safeguards are for people who are unable to make a decision about the way they are being treated or cared for in a hospital or care home – and where other people are having to make this decision for them.**

*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.

The Deprivation of Liberty Safeguards are for people who are 18 years old or older.

The Deprivation of Liberty Safeguards are only for people who live in a care home or are staying in hospital.





## What happens if you are being deprived of your liberty?

There is a book of rules that explain what should happen. This is called the *Code of Practice* and tells the people involved what to do.

The Code of Practice says that the people who are caring for or treating you are called the *managing authority*. If the managing authority thinks they are depriving you of your liberty they must make sure they are not breaking the law.

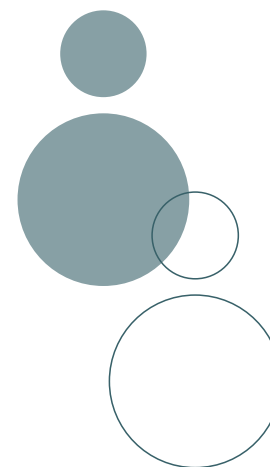
The managing authority must write to someone called the *supervisory body* (your local council or health trust) to tell them that they think you need Deprivation of Liberty Safeguards.

The *Code of Practice* says the *supervisory body* must decide if you need Deprivation of Liberty Safeguards. They will do this by arranging at least 2 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 Best interests Assessor will be a person who doesn't work in your care home or hospital.

The Best Interests Assessor will write a report to tell the supervisory body if you need Deprivation of Liberty Safeguards and for how long this should be.

A Deprivation of Liberty Safeguard should be for as short a time as possible. They should never be for more than a year.



## What will happen after the Best Interest Assessor's report?

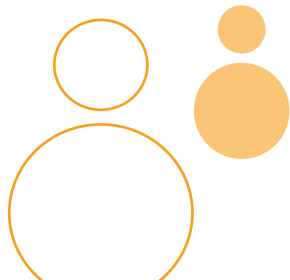
- **The report might say you are being deprived of your liberty and that this is in your best interests.**

The supervisory body will write to the managing authority to tell them this and ask them to explain this to you. You will get Deprivation of Liberty Safeguards to make sure you are safe.

- **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.**

The supervisory body will write to the managing authority to tell them this and ask them to explain this to you. The changes must happen. You will get Deprivation of Liberty Safeguards to make sure you are safe.

- **The report might say you should not be deprived of your liberty.**



The supervisory body will write to the managing authority to tell them this and ask them to explain this to you. You must not be deprived of your liberty any more, so you will not need Deprivation of Liberty Safeguards.

## What will happen if I get Deprivation of Liberty Safeguards?

Everyone who has Deprivation of Liberty Safeguards must have a *representative*. The Supervisory body will make sure you get a representative.

A representative is a person who doesn't work in your hospital or care home. They visit you and check you are looked after in a way that means you are safe.

Your person's 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 Deprivation of Liberty Safeguard, they can ask for a *review*. You or your representative or your managing authority can ask for a review. A review will also be carried out if your situation changes.





## If you want to know more about the Deprivation of Liberty Safeguards

There is a rule book about the Deprivation of Liberty Safeguards called the Code of Practice. Everybody caring for you has to follow these rules. The Code of Practice tells you more about the Deprivation of Liberty Safeguards.

