

Information about making an application to the Court of Protection to Challenge a Deprivation of Liberty Authorisation

This information is for people appointed to the role of Relevant Person's Representative (RPR), where the need to challenge a Deprivation of Liberty authorisation (a Section 21A challenge) has been identified. This includes when a person deprived of liberty is objecting to the authorisation - more information on when a challenge may be necessary your rights as an RPR (including support from a specialist independent mental capacity advocate) is given in the Stockton-on-Tees Borough Council leaflet **Mental Capacity Act (2005) Deprivation of Liberty Safeguards: A guide for relevant person's representatives**.

What steps does the RPR need to take to challenge the authorisation?

RPRs are advised to contact a solicitor with experience of completing applications to the Court of Protection. Details of those Solicitor firms working regularly in this field are provided below (this list is not in any order of preference or recommendation).

BHP Law (Darlington)	Stephen Williams Westgate House, Faverdale, Darlington DL3 0PZ Tel: 01325466794 Fax: 01325376509 Email via website www.bhplaw.co.uk
Cartwright King Solicitors	Victoria Burrows 19 Kingsway House, Kingsway, Team Valley, Gateshead NE11 0HW Tel: 0191 487 6775 Fax: 0808 168 1500 Email: admin@cartwrightking.co.uk
Irwin Mitchell Solicitors	Yogi Amin/ Helen Cummings/ Alex Peebles 36 Gallowgate, Newcastle upon Tyne NE1 4TD Tel: 0191 279 0096 Fax: 0191 230 2478 Email via website www.irwinmitchell.com
Punch Robson Solicitors	Rachael Hart/Louise Shaw Unit E, Parkway Centre, Coulby Newham, Middlesbrough TS8 0TJ Tel: 01642 233980 or 01642 298840 Email via website www.punchrobson.co.uk
Switalskis Solicitors	Susan McKendry 18 Back Swinegate, York YO1 8AD Tel: 01904 606250 Fax: 01904 606251 Email via website www.switalskis.com
Watson Woodhouse Solicitors	Julie Brown 111 High Street, Stockton-on-Tees, TS18 1BB 102-108 Borough Road, Middlesbrough, TS1 2HJ Tel: 01642 670634/01642 247656. Email: info@watsonwoodhouse.co.uk Contact via website: www.watsonwoodhouse.co.uk

Information you'll need to pass on to the Solicitor

When speaking to the solicitor, you will need to explain that:

- i. You are the appointed RPR for the person deprived of liberty.
- ii. You would like to apply for legal aid and to challenge the Deprivation of Liberty authorisation under a Section 21A challenge.

Solicitors have generally applied for legal aid in the name of the person deprived of liberty, with the RPR named as the Litigation Friend, and this has been accepted by the courts. The solicitor should complete the necessary paperwork, or support you in doing so.

What does Legal Aid cover?

Legal aid will mean that the costs associated with the application, legal representation and court proceedings are met.

What does the Section 21A challenge process involve?

- The Court of Protection has a designated team dealing with DoLS applications who should be notified as soon as it is known an application is likely to be issued.
- Practice Direction A which supplements Part 10A of the Court of Protection Rules 2007 should be followed.
- All applications are made on prescribed forms through the designated team at the Court of Protection in London, although proceedings will be transferred to another court more convenient to the parties. An issue fee is payable although may be reclaimed if the applicant is legally aided.
- The local authority whose signatory authorised the DoLS will be a respondent to the application. It is possible for others with an interest in the case to be made parties.
- All applications are placed before a judge as soon as possible who will give some case management directions which can include the filing of further documents or other evidence, preparation of a court bundle and skeleton arguments and listing the application for a hearing.
- The court will try to arrange for the first hearing to take place within 5 days of the application being issued. A hearing fee is payable for all hearings but this will be covered by the applicant's legal aid certificate if they are legally aided.
- It is unlikely that the proceedings will be concluded at the first hearing. The court is likely to direct the filing of further evidence including statements from the applicant and respondents (which must include a statement of truth). The court will consider how the views of the person deprived of their liberty can be put before it. An expert report might be required to help the court with particular aspects of the case. The court may authorise the continued DoL until the next hearing.
- The court will list a further hearing, usually to finalise the proceedings or sometimes as a review if the court will not have all the information it needs to make a final decision.
- Once the court has all the information it needs it will make an order at a final hearing which may either confirm that the DoL should continue or decide that the person should not be deprived of their liberty.
- The court will try to speed up the proceedings and in many cases they will be concluded in a matter of weeks. Some cases can run to several months however, depending on what information the court needs to conclude the proceedings.