

# Key words and phrases used in the Code of Practice

The table below is not a full index or glossary. Instead, it is a list of key terms used in this Code of Practice. References in bold indicate particularly valuable content for that term.

Advance decision to refuse treatment	A decision to refuse specified treatment made in advance by a person who has capacity to do so. This decision will then apply at a future time when that person lacks capacity to consent to, or refuse, the specified treatment. Specific rules apply to advance decisions to refuse life sustaining treatment.	4.26
Advocacy	Independent help and support with understanding issues and putting forward a person's own views, feelings and ideas.	2.7
Age assessment	An assessment, for the purpose of the deprivation of liberty safeguards, of whether the relevant person has reached age 18.	<b>4.23–4.24</b>
Approved mental health professional	A social worker or other professional approved by a local social services authority to act on behalf of a local social services authority in carrying out a variety of functions.	4.52, 4.53, 4.60
Assessor	A person who carries out a deprivation of liberty safeguards assessment.	<b>Chapter 4 (all)</b> 1.16–1.17, 3.21, 5.22, 9.10 Best interests, and appointing a relevant person's representative: 7.10–7.23
Best interests assessment	An assessment, for the purpose of the deprivation of liberty safeguards, of whether deprivation of liberty is in a detained person's best interests, is necessary to prevent harm to the person and is a proportionate response to the likelihood and seriousness of that harm.	<b>4.58–4.76</b> Best interests, and appointing a relevant person's representative: 7.10–7.23

Bournewood judgment	The commonly used term for the October 2004 judgment by the European Court of Human Rights in the case of <i>HL v the United Kingdom</i> that led to the introduction of the deprivation of liberty safeguards.	<b>Introduction to chapter 1</b> 1.19, 2.2, 2.22
Capacity	Short for mental capacity. The ability to make a decision about a particular matter at the time the decision needs to be made. A legal definition is contained in section 2 of the Mental Capacity Act 2005.	Throughout
Care home	A care facility registered under the Care Standards Act 2000.	Throughout
Care Quality Commission	The new integrated regulator for health and adult social care that, subject to the passage of legislation, will take over regulation of health and adult social care from 1 April 2009.	Chapter 11
Carer	Someone who provides unpaid care by looking after a friend or neighbour who needs support because of sickness, age or disability. In this document, the term carer does not mean a paid care worker.	Throughout
Children Act 1989	A law relating to children and those with parental responsibility for children.	1.12, 5.22
Conditions	Requirements that a supervisory body may impose when giving a standard deprivation of liberty authorisation, after taking account of any recommendations made by the best interests assessor.	<b>4.74–4.75</b> 5.5 Review of: 8.14, 8.16
Consent	Agreeing to a course of action – specifically in this document, to a care plan or treatment regime. For consent to be legally valid, the person giving it must have the capacity to take the decision, have been given sufficient information to make the decision, and not have been under any duress or inappropriate pressure.	Throughout
Court of Protection	The specialist court for all issues relating to people who lack capacity to make specific decisions.	<b>Chapter 10</b>
Deprivation of liberty	Deprivation of liberty is a term used in the European Convention on Human Rights about circumstances when a person's freedom is taken away. Its meaning in practice is being defined through case law.	<b>Chapter 2</b> Throughout

## Key words

Deprivation of liberty safeguards	The framework of safeguards under the Mental Capacity Act 2005 for people who need to be deprived of their liberty in a hospital or care home in their best interests for care or treatment and who lack the capacity to consent to the arrangements made for their care or treatment.	Throughout
Deprivation of liberty safeguards assessment	Any one of the six assessments that need to be undertaken as part of the standard deprivation of liberty authorisation process.	<b>Chapter 4</b>
Deputy	Someone appointed by the Court of Protection with ongoing legal authority, as prescribed by the Court, to make decisions on behalf of a person who lacks capacity to make particular decisions.	4.26, 4.65, 5.11, 5.22, 7.7, 7.13–7.15, 7.18, 7.23, 7.29, 10.3, 10.8
Donee	Someone appointed under a Lasting Power of Attorney who has the legal right to make decisions within the scope of their authority on behalf of the person (the donor) who made the Lasting Power of Attorney.	3.9, 4.26, 4.65, 5.11, 5.22, 7.7, 7.13–7.15, 7.18, 7.23, 7.29, 10.3, 10.8
Eligibility assessment	An assessment, for the purpose of the deprivation of liberty safeguards, of whether or not a person is rendered ineligible for a standard deprivation of liberty authorisation because the authorisation would conflict with requirements that are, or could be, placed on the person under the Mental Health Act 1983.	<b>4.40–4.57</b>
European Convention on Human Rights	A convention drawn up within the Council of Europe setting out a number of civil and political rights and freedoms, and setting up a mechanism for the enforcement of the obligations entered into by contracting states.	Chapter 1, Chapter 2
European Court of Human Rights	The court to which any contracting state or individual can apply when they believe that there has been a violation of the European Convention on Human Rights.	Introduction to Chapter 1, 2.1–2.2
Guardianship under the Mental Health Act 1983	The appointment of a guardian to help and supervise patients in the community for their own welfare or to protect other people. The guardian may be either a local authority or a private individual approved by the local authority.	4.43, 4.44

Independent Mental Capacity Advocate (IMCA)	Someone who provides support and representation for a person who lacks capacity to make specific decisions, where the person has no-one else to support them. The IMCA service was established by the Mental Capacity Act 2005 and is not the same as an ordinary advocacy service.	<b>3.22–3.28, 7.34–7.41</b> 3.16, 4.7, 5.7–5.8, 5.18, 6.8, 6.19, 6.27–6.28, 7.4, 7.23, 7.26, 8.18, 8.28, 9.6, 9.9
Lasting Power of Attorney	A Power of Attorney created under the Mental Capacity Act 2005 appointing an attorney (donee), or attorneys, to make decisions about the donor's personal welfare, including health care, and/or deal with the donor's property and affairs.	10.8
Life-sustaining treatment	Treatment that, in the view of the person providing health care, is necessary to keep a person alive.	5.13
Local authority	In the deprivation of liberty safeguards context, the local council responsible for social services in any particular area of the country.	1.4, 2.18, 2.21, 3.3, 3.11, 3.21, 4.77
Local health board (LHB)	Local health boards cover the same geographic areas as local authorities in Wales. They work alongside their respective local authorities in planning long-term strategies for dealing with issues of health and wellbeing in their areas.	1.4, 3.3
Main Code	The Code of Practice for the Mental Capacity Act 2005.	Throughout
Managing authority	The person or body with management responsibility for the hospital or care home in which a person is, or may become, deprived of their liberty.	<b>1.4–1.5, 3.1</b> Throughout
Maximum authorisation period	The maximum period for which a supervisory body may give a standard deprivation of liberty authorisation, which must not exceed the period recommended by the best interests assessor, and which cannot be for more than 12 months.	4.71
Mental Capacity Act 2005	Legislation that governs decision-making for people who lack capacity to make decisions for themselves or who have capacity and want to make preparations for a time when they may lack capacity in the future. It sets out who can take decisions, in which situations, and how they should go about this.	Throughout

## Key words

Mental capacity assessment	An assessment, for the purpose of the deprivation of liberty safeguards, of whether a person lacks capacity in relation to the question of whether or not they should be accommodated in the relevant hospital or care home for the purpose of being given care or treatment.	4.29–4.32
Mental disorder	Any disorder or disability of the mind, apart from dependence on alcohol or drugs. This includes all learning disabilities.	1.4, 1.7, 1.9, 3.9, 4.33–4.35, 4.45, 4.50, 5.9, 5.22, 6.3
Mental Health Act 1983	Legislation mainly about the compulsory care and treatment of patients with mental health problems. It covers detention in hospital for mental health treatment, supervised community treatment and guardianship.	<b>4.33–4.57</b> 1.1, 1.11–1.12, 2.13, 4.5, 5.19, 5.22, 7.8, 8.3, 8.19–8.21
Mental health assessment	An assessment, for the purpose of the deprivation of liberty safeguards, of whether a person has a mental disorder.	<b>4.33–4.39</b>
No refusals assessment	An assessment, for the purpose of the deprivation of liberty safeguards, of whether there is any other existing authority for decision-making for the relevant person that would prevent the giving of a standard deprivation of liberty authorisation. This might include any valid advance decision, or valid decision by a deputy or donee appointed under a Lasting Power of Attorney.	<b>4.25–4.28</b>
Qualifying requirement	Any one of the six qualifying requirements (age, mental health, mental capacity, best interests, eligibility and no refusals) that need to be assessed and met in order for a standard deprivation of liberty authorisation to be given.	4.1
Relevant hospital or care home	The hospital or care home in which the person is, or may become, deprived of their liberty.	Throughout
Relevant person	A person who is, or may become, deprived of their liberty in a hospital or care home.	Throughout
Relevant person's representative	A person, independent of the relevant hospital or care home, appointed to maintain contact with the relevant person, and to represent and support the relevant person in all matters relating to the operation of the deprivation of liberty safeguards.	<b>Chapter 7</b>

Restraint	The use or threat of force to help carry out an act that the person resists. Restraint may only be used where it is necessary to protect the person from harm and is proportionate to the risk of harm.	2.8–2.15
Restriction of liberty	An act imposed on a person that is not of such a degree or intensity as to amount to a deprivation of liberty.	Chapter 2
Review	A formal, fresh look at a relevant person's situation when there has been, or may have been, a change of circumstances that may necessitate an amendment to, or termination of, a standard deprivation of liberty authorisation.	<b>Chapter 8</b>
Standard authorisation	An authorisation given by a supervisory body, after completion of the statutory assessment process, giving lawful authority to deprive a relevant person of their liberty in the relevant hospital or care home.	<b>Chapter 4</b> Throughout
Supervised community treatment	Arrangements under which people can be discharged from detention in hospital under the Mental Health Act 1983, but remain subject to the Act in the community rather than in hospital. Patients on supervised community treatment can be recalled to hospital if treatment in hospital is necessary again.	4.41, 4.50, 4.51
Supervisory body	A primary care trust, local authority, Welsh Ministers or a local health board that is responsible for considering a deprivation of liberty request received from a managing authority, commissioning the statutory assessments and, where all the assessments agree, authorising deprivation of liberty.	<b>1.4, 3.3</b> Throughout
Unauthorised deprivation of liberty	A situation in which a person is deprived of their liberty in a hospital or care home without the deprivation being authorised by either a standard or urgent deprivation of liberty authorisation.	Chapter 9

## Keywords

Urgent authorisation	An authorisation given by a managing authority for a maximum of seven days, which may subsequently be extended by a maximum of a further seven days by a supervisory body, that gives the managing authority lawful authority to deprive a person of their liberty in a hospital or care home while the standard deprivation of liberty authorisation process is undertaken.	<b>Chapter 6</b> Throughout
----------------------	--	--------------------------------