

Stage 1 Equality Impact Assessment – Initial Screening

Assessor(s) Name(s):	Ginny Smith
Directorate:	Adult Social Care and Housing Needs
Date of Completion:	20th February 2024

Name of Policy/Strategy/Service/Function Proposal

Deprivation of Liberty Safeguard (DoLS) Policy

This policy outlines the Isle of Wight Council's arrangements for the operation of the Mental Capacity Act (MCA) Deprivation of Liberty Safeguards (DoLS). DoLS were an amendment to the MCA 2005 which came into effect in April 2009. The Policy is also Care Act 2014 compliant.

The Aims, Objectives and Expected Outcomes:

DoLS provides a framework to:

- 1) The Deprivation of Liberty Safeguards provides legal protection for those vulnerable people who are, or may become, deprived of their liberty within the meaning of Article 5 of the European Court of Human Rights (ECHR) in a hospital or care home;
- 2) To help to identify when a person who lacks mental capacity to consent to it, is deprived of their liberty to ensure that any deprivation of liberty is lawful and provide an Appeals Process.

The Policy is directly linked to the Care Act 2014 and has been written to reflect the Act.

Please delete as appropriate:

- This is a review of an existing policy.

Key Questions to Consider in Assessing Potential Impact	
Will the policy, strategy, service or council function proposal have a negative impact on any of the protected characteristics or other reasons that are relevant issues for the local community and/or staff?	No
Has previous consultation identified this issue as important or highlighted negative impact and/or we have created a "legitimate expectation" for consultation to take place? A legitimate expectation may be created when we have consulted on similar issues in the past or if we have ever given an indication that we would consult in such situations	No
Do different groups of people within the local community have different needs or experiences in the area this issue relates to?	Yes
Could the aims of these proposals be in conflict with the council's general duty to pay due regard to the need to eliminate discrimination, advance equality of opportunity and to foster good relations between people who share a protected characteristic and people who do not?	No
Will the proposal have a significant effect on how services or a council function/s is/are delivered?	No
Will the proposal have a significant effect on how other organisations operate?	No
Does the proposal involve a significant commitment of resources?	Yes
Does the proposal relate to an area where there are known inequalities?	Yes
<p>If you answer Yes to any of these questions, it will be necessary for you to proceed to a full Equality Impact Assessment after you have completed the rest of this initial screening form.</p> <p>If you answer No to all of these questions, please provide appropriate evidence using the table below and complete the evidence considerations box and obtain sign off from your Head of Service.</p>	

Protected Characteristics	Positive	Negative	No impact	Reasons
Age			✓	The process will be applied equitably to ensure that we meet the needs of the diverse range of people who meet the criteria for this Policy regardless of their age.
Disability			✓	The process will be applied equitably to ensure that we meet the needs of the diverse range of people who meet the criteria for this policy regardless of their disability.
Gender Reassignment			✓	The policy will ensure that procedures followed and decision made are carried out in a consistent and transparent manner and applied with equity irrespective of a person's status with regard to gender reassignment.
Marriage & Civil Partnership			✓	The policy will ensure that the procedures followed and decision made are carried out in a consistent and transparent manner and applied with equity irrespective of a person's marriage or civil partnership status.
Pregnancy & Maternity			✓	The policy will ensure that the procedures followed and decision made are carried out in a consistent and transparent manner and applied with equity irrespective of a person's pregnancy or maternity status.
Race			✓	The policy will ensure that the procedures followed and decision made are carried out in a consistent and transparent manner and applied with equity irrespective of a person's race or ethnic background.
Religion / Belief			✓	The policy will ensure that the procedures followed and decision made are carried out in a consistent and transparent manner and applied with equity irrespective of a person's religion or belief.
Sex (male / female)			✓	The policy will ensure that the procedures followed and decision made are carried out in a consistent and transparent manner and applied with equity irrespective of a person's gender.
Sexual Orientation			✓	The policy will ensure that procedures followed and decision made are carried out in a consistent and transparent manner and applied with equity irrespective of a person's sexual orientation.

Are there aspects of the proposal that contribute to or improve the opportunity for equality?	Yes
<i>If answered Yes, describe what these are and how they may be promoted or enhanced</i>	
<p>The safeguards provide legal protection for people who lack mental capacity to make decisions in relation to where they are accommodated for the purpose of receiving care, who are or may be deprived of their liberty. They ensure that their Human Rights under Article 5 of the Human Rights Act are not breached.</p>	

Evidence Considered During Screening	
<p>DoLS is a provision of the Mental Capacity Act (MCA) 2005 and only applies to people who have a mental disorder and have been assessed as lacking mental capacity to decide where they should live and may be deprived of their liberty in their accommodation (hospital/care home).</p> <p>There is a presumption of capacity when it comes to decision making and giving/withholding consent, however, if there is a reason to suspect that a person may lack capacity to make a specific decision then an assessment of their mental capacity to make that specific decision should be undertaken.</p> <p>If the person is found to lack capacity to make a decision or to give/withhold their consent, then any decisions made should be made in their best interests, in line with section 4 of the MCA 2005.</p> <p>This may involve the use of restraint to protect the person from harm and where the level of restraint involves deprivation of liberty, this policy will apply.</p> <p>People have different needs and experiences in all impact area groups. The DoLS policy does not differentiate and enhances that there is no discrimination.</p> <p>Those who may fall into the DoLS category could argue to be more disadvantaged than other disabled people. The law and this policy seek to redress that disadvantage. The Council are being fair to all.</p> <p>Consideration given to statutory guidance and current legislation.</p>	
Head of Service Sign off:	Laura Gaudion
Advice sought from Legal Services (Name)	Garion Bird
Date	TBC

Stage 2 Full Equality Impact Assessment

Assessor(s)Name(s):	Ginny Smith
Directorate:	Adult Social Care and Housing Department
Date of Completion:	20 th February 2024

Name of Policy/Strategy/Service/Function Proposal

Deprivation of Liberty Safeguard (DoLS) Policy

This policy outlines the Isle of Wight Council's arrangements for the operation of the Mental Capacity Act (MCA) Deprivation of Liberty Safeguards (DoLS). DoLS were an amendment to the MCA 2005 which came into effect in April 2009. The Policy is also Care Act compliant.

The Aims, Objectives and Expected Outcomes:

Using the information provided in your initial screening, write a brief description of your policy, strategy, service or council function under assessment. It is important to focus on the reasons for a new or changed approach and what it intends to achieve. Include who the main beneficiaries or users are and the main groups of people with protected characteristics who are affected. State how this proposal fits with the council's corporate priorities.

DoLS provides a framework to:

- 1) The Deprivation of Liberty Safeguards provide legal protection for those vulnerable people who are, or may become, deprived of their liberty within the meaning of Article 5 of the European Court of Human Rights (ECHR) in a hospital or care home;
- 2) To help to identify when a person who lacks mental capacity to consent to it, is deprived of their liberty to ensure that any deprivation of liberty is lawful and provide an Appeals Process.

The Policy is directly linked to the Care Act 2014 and has been written to comply with the Act.

Please delete as appropriate:

- This is a review of the policy.

Scope of the Equality Impact Assessment

Isle of Wight DoLS Cases – 1/04/2022 – 31 March 2023

Total DoLS Cases:	1831	%
Age:	18 –64 260	14.2%
	65 – 74 167	9.1%
	75 – 84 563	30.7%
	84+ 841	45.9%

Gender:	Male 688	37.6%
	Female 1143	62.4%

Ethnic Origin:	White: British 1636	89.4%
	White: Irish 13	0.7%
	White: Other 65	3.5%
	Black: British 2	0.1%
	Asian/Asian: British 1	0.1%
	Mixed: Other 3	0.2%
	Not Stated 111	6.1%

Religion:	Agnostic 0	0%
	Atheist 5	0.3%
	Christian 748	40.9%
	Jehovah Witness 7	0.4%
	Mormon 3	0.2%
	Non-Conformist 10	0.5%
	Spiritualism 0	0%
	Other 8	0.4%
	None 48	2.6%
	Unknown 955	52.2%
	Declines To Disclose 47	2.6%

Sexual Orientation:	Heterosexual 1354	73.9%
	Not Known 445	24.3%

Disability:	Dementia 1109	60.6%
	Learning Disability 198	10.8%
	Mental Health 174	9.5%

	Physical Disability 43	2.3%	
	Other Disability 106	5.8%	
	No disability 201	11%	

Analysis and assessment

Given the available information, what is the actual or likely impact on minority, disadvantaged, vulnerable and socially excluded groups? Is this impact positive or negative or a mixture of both? In particular set out how the council as a public body has met its duty to pay regard to eliminate unlawful discrimination, harassment and victimisation and advance the equality of opportunity and to foster good relations between people who share a protected characteristic and people who do not.

Detail what concerns were identified during any consultation exercises together with any positive impact that has been identified and how this can be promoted or enhanced. Are there any concerns from consultation and data gathering that have not been taken on board, if so, please justify and explain the reason for this.

Does the proposal have the potential to cause unlawful discrimination (for example is it possible that the proposal may exclude certain groups of people from obtaining services or limit their participation in any aspect of public life?)

Set out in light of the consultation and data gathering what changes, if any you will make to the proposal

What can be done to reduce the effects of any negative impacts? Where negative impact cannot be completely diminished, can this be justified and is it lawful?

The DoLS Policy has been created to support staff in Adult Social Care to adhere to the provisions of the Mental Capacity Act, Deprivation of Liberty Safeguards, Care Act and Human Rights Act and provides a comprehensive and safe legal framework to protect the rights of those individuals accommodated in residential, nursing homes and hospitals who have disabilities and may be subject to significant restraint to protect them from harm.

This review has not found any change in the DoLS policy that would change the impact on individuals subject to the policy, see the DoLS data above.

Recommendations

Please summarise the main recommendations arising from the assessment. If it is not possible to diminish negative impacts to an acceptable or even a lawful level the recommendation should be that the proposal or the relevant part of it should not proceed.

- Collect data on DoLS activity by the Isle of Wight Supervisory Body for the NHS digital annual return which compiles the latest statistics on the use of the Deprivation of Liberty Safeguards in England.
- Prepare monthly reports on DoLS activity for the Isle of Wight Council Adult Social Care Leadership.

Action/Improvement Plan

The table below should be completed using the information from your equality impact assessment to produce an action plan for the implementation of the proposals to:

1. Remove or lower the negative impact, and/or
2. Ensure that the negative impact is legal under anti-discriminatory law, and/or
3. Provide an opportunity to promote equality, equal opportunity and improve relations within equality target groups, i.e. increase the positive impact

Area of impact	Is there evidence of negative positive or no impact?	Could this lead to adverse impact and if so why?	Can this adverse impact be justified on the grounds of promoting equality of opportunity for one group or any other reason?	Please detail what measures or changes you will put in place to remedy any identified impact (NB: please make sure that you include actions to improve all areas of impact whether negative, neutral or positive)
Age	No impact		SUPPORTING	<p>1. Ongoing training offers for all Adult Social Care and Housing staff to ensure that the underlying provisions of the MCA are properly applied.</p> <p>2. A procurement exercise is ongoing to help maximise the DoLS Assessor capacity to manage the waiting list of DoLS requests, with a view to being more equitable. This will ensure that any deprivation of liberty is carried out lawfully within</p>

Area of impact	Is there evidence of negative positive or no impact?	Could this lead to adverse impact and if so why?	Can this adverse impact be justified on the grounds of promoting equality of opportunity for one group or any other reason?	Please detail what measures or changes you will put in place to remedy any identified impact (NB: please make sure that you include actions to improve all areas of impact whether negative, neutral or positive)
				care and nursing homes and hospital settings, and with regard to this policy and the legislation, taking into account any equality issues.
Disability	No impact			
Gender Reassignment	No impact			
Marriage & Civil Partnership	No impact			
Pregnancy & Maternity	No impact			
Race	No impact			
Religion / Belief	No impact			
Sex (male or female)	No impact			
Sexual Orientation	No impact			

Area of impact	Is there evidence of negative positive or no impact?	Could this lead to adverse impact and if so why?	Can this adverse impact be justified on the grounds of promoting equality of opportunity for one group or any other reason?	Please detail what measures or changes you will put in place to remedy any identified impact (NB: please make sure that you include actions to improve all areas of impact whether negative, neutral or positive)
HR & workforce issues	No impact			
Human Rights implications if relevant	No impact			
<p>Please remember - actions should have SMART targets and be reported to the Diversity Board (this should be done via your Directorate representative) and incorporated into your service/team Plans and /or objectives of key staff</p>				

Summary	
Date of Assessment:	20/02/2024
Signed off by Head of Service/Director	Laura Gaudion
Review date	01/02/2026
Date published	??

The Deprivation of Liberty Safeguard (DoLS) Policy can be located on the internal Isle of Wight Council Website under Departmental Web Pages Adult Social Care and Housing Staff Zone, Adult Social Care Policies and Documents; ASC Deprivation of Liberty Safeguard (DoLS) Policy: [Viewing Document: ASC Deprivation of Liberty Safeguard \(DoLS\) Policy \(iow.gov.uk\)](#)

or the external website: <https://www.iow.gov.uk/documentlibrary/view/deprivation-of-liberty-safeguard-dols-policy>