

How to find out more

If you want more copies of this booklet
you can:



◆ Telephone 27296



◆ Email slowe.social@kemh.gov.fk



The Mental Capacity and Deprivation of Liberty Ordinance

Easy read

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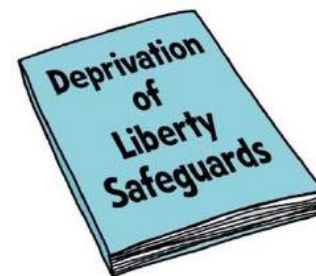
lacking capacity	When people cannot make a decision for themselves
managing authority	The people who are in charge of the care or treatment of someone who is lacking capacity.
Mental Capacity and Deprivation of Liberty Ordinance	A law about making decisions and what to do when people cannot make some decisions for themselves
representative	A person who visits someone who is lacking capacity to check they are looked after in a way that means they are safe
review	A check to make sure that a person in a hospital or a care home is being treated in the right way
safeguard	Something that keeps a person safe

What the words mean

assessor	Someone who checks for the supervisory body that a person is being treated or cared for in the right way
Best Interests Assessor	The person who writes a report to tell the supervisory body if someone needs a Deprivation of Liberty Safeguards Authorisation
Code of Practice	A rule book about the Deprivation of Liberty Safeguards
Court of Protection	A special court which decides whether or not a person should be deprived of their liberty
deprivation of liberty	Stopping someone from doing the things they want all the time in a hospital or care home
Deprivation of Liberty Safeguards	Rules about giving people the special protection they need in a hospital or care home
Deprivation of Liberty Safeguards Authorisation	A special agreement which says a person can be deprived of their liberty

This is an Easy Read booklet about the

Mental Capacity and Deprivation of Liberty Ordinance



There are some difficult words in this booklet.

There is a list of these words and what they mean on pages 22 and 23.

These words are in **blue** letters in the booklet.

You may like to have someone to support you when you look at this booklet.



What is the Mental Capacity and Deprivation of Liberty Ordinance Act?

The **Mental Capacity and Deprivation of Liberty Ordinance** 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 and Deprivation of Liberty Ordinance 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.



You or your representative or your **managing authority** can ask for a review. There will also be a review if your situation changes.



If you or your representative disagree about you being deprived of your liberty, you can ask a special court called the **Court of Protection** to decide whether you should be deprived of your liberty or not.



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.



People will need to find out:

- ◆ which decisions you can make on your own
- ◆ which decisions you might need some help with, and
- ◆ which decisions you cannot make yourself.



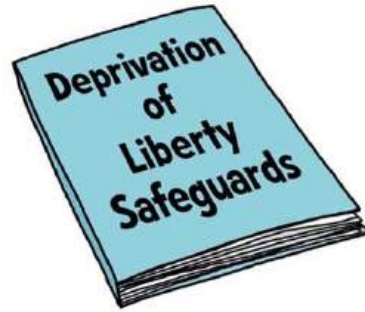
The Mental Capacity and Deprivation of Liberty Ordinance tells people how to help you to make decisions for yourself, if you can.



The Mental Capacity and Deprivation of Liberty Ordinance tells people what to do if you cannot make some of your own decisions (if you are lacking capacity).

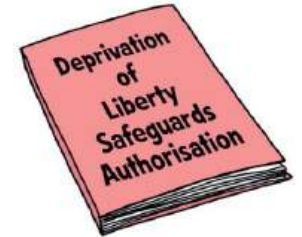


The Deprivation of Liberty Safeguards only apply to people who are lacking capacity.



What will happen if I get Deprivation of Liberty Safeguards?

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



If you want to know more about the **Mental Capacity and Deprivation of Liberty Ordinance**:



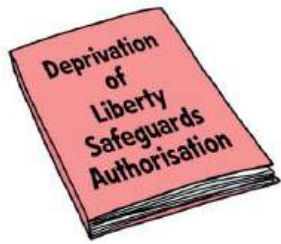
- ◆ You can phone social services on 27296 to ask us to ask questions
- ◆ You can email social services on slowe.social@kemh.gov.fk
- ◆ You can also ask you carer or support worker to let us know you would like to know more.

A representative is a person who does not work with you. They visit you and check you are looked after in a way that means you are safe. Your 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, they can ask for a **review**. A review is a check to make sure that you are being treated in the right way.





Then 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 a Deprivation of Liberty Safeguards Authorisation to make sure you are safe.



Or the report might say you should not be deprived of your liberty.



Then 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 a Deprivation of Liberty Safeguards Authorisation.

What is 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 hospital where you are staying or the care home where you live
- ◆ Your family, carers or friends not being allowed to come and see you



Deprivation of liberty is about:

- ◆ The way that other people care for you and treat you
- ◆ The way you feel about the way that people care for you and treat you
- ◆ The way that the people who care for you and treat you can stop you doing all the things you enjoy.



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

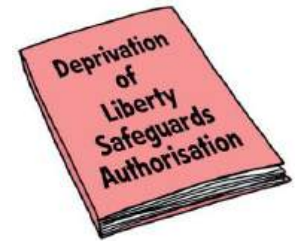


What will happen after the Best Interests Assessor's report?

The **Best Interests Assessor's** report might say you are being deprived of your liberty and that this is in your best interests.



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



Or 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 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.



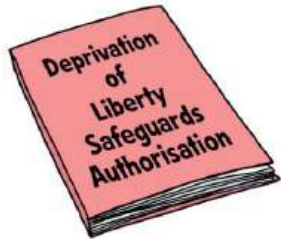
In 1997 a man with a learning disability was being cared for in a hospital called Bournwood in the United Kingdom. Because of his learning disability the man was not able to make the decision about whether he should stay in hospital or go home.



One assessor is called the **Best Interests Assessor**. The Best Interests Assessor will be a person who does not work with you.



His carers thought the man was not free to do all the things he wanted to do. His carers wanted him to come home.



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



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



The Deprivation of Liberty Safeguards should be for as short a time as possible and never for longer than a year.



So the carers asked an important court in Europe to decide who was right.

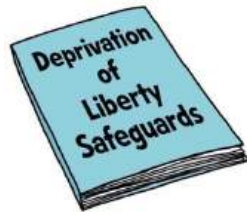
The court agreed with the carers and said the hospital was wrong. They said the hospital had broken the law because the man had had his liberty taken away without any safeguards. This court case was called **HL v the UK** (often called Bournemouth).



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



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 must have a special agreement called a Deprivation of Liberty Safeguards Authorisation to keep you safe.



The Falkland Islands Government wants to make it the law that people are cared for or treated in a way that is right. These rules are called the **Deprivation of Liberty Safeguards**.

This is the law.

What happens if you are being deprived of your liberty?

There is a book of rules that explains 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 need to deprive you of your liberty, they must make sure they are not breaking the law.



The managing authority must write to something called the **supervisory body** (Social Services department) to tell them that they think you need **Deprivation of Liberty Safeguards**.



The Deprivation of Liberty Safeguards are for:

- ◆ people living in the Falkland Islands
- ◆ people who are 18 years old or older
- ◆ people who have a mental disorder such as dementia (a sort of mental illness) or a learning disability



18+



- ◆ people who live in a care home or are staying in hospital, who are lacking capacity to agree to be there. (The people need to be there to get the treatment or care that will protect them from harm in their best interests.)



Why do we need the Deprivation of Liberty Safeguards?

Sometimes you may need treatment or care from people like doctors and nurses or care workers if you are staying in a hospital or living in a 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.



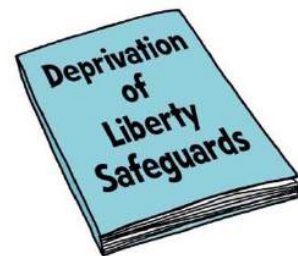
If you are stopped from doing the things you want all the time, this is called being **deprived of your liberty**. Sometimes people having treatment or care might be deprived of their liberty to keep them safe.



If this happened to you it would have to be in your best interests. People would have to think very carefully about the decisions they make for you, to make sure those decisions are good for you. (You can find out more about what this means in the **Mental Capacity and Deprivation of Liberty Ordinance**.)

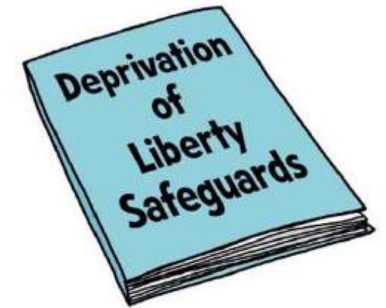


If you are deprived of your liberty you need special protection called safeguards to make sure you are looked after properly and are kept safe. The Deprivation of Liberty Safeguards are the way to give you the special protection you need.



When will the Deprivation of Liberty Safeguards be used?

The Deprivation of Liberty Safeguards are for people who cannot make a decision about the way they are being treated or cared for in a hospital or care home, 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.

