Deprivation of Liberty Safeguards

Annual Monitoring Report for Health and Social Care 2016-17

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Care Inspectorate **Wales**

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Introduction

This is the annual monitoring report of Care Inspectorate Wales and Healthcare Inspectorate Wales on the implementation of Deprivation of Liberty Safeguards in Wales, on behalf of Welsh Ministers.

The report examines the key findings for the year 2016-17, providing an analysis of the information and a description of trends, concerns and achievements. It is designed to contribute to the improvement in outcomes for people in need of support from the Deprivation of Liberty Safeguards.

Deprivation of Liberty Safeguards (DoLS)

People who are not able to make some or all of their own decisions due to a lack of capacity are protected and empowered by the Mental Capacity Act 2005 (MCA). The MCA sets out who can make decisions for a person who lacks capacity, when and how. It ensures that decisions are made in a person's best interests and the person is involved in the decision as much as possible. The safeguards provide for access to advocates and the right to legally challenge any deprivation of liberty.

The DoLS were introduced as an amendment to the MCA and came into force in April 2009. The DoLS are additional safeguards to protect the rights of people who are deprived of their liberty to protect their health and safety.

A Supreme Court ruling in March 2014 clarified the definition and widened the scope of when someone is being deprived of their liberty. This introduction of an 'acid test' can be described as:

a) when a person is under continuous or complete supervision and control,
b) and is not free to leave,
c) and the person lacks capacity to consent to these arrangements.

DoLS are used only in hospitals and care homes. These are called 'managing authorities'. The bodies that authorise DoLS applications are called 'supervisory bodies'. Hospitals apply to its health board to authorise its DoLS applications and care homes apply to local authorities. In Wales the authorising local authority is the local authority in which the individual is ordinarily resident before placement.

There are six assessments needed for a Standard authorisation that can be granted for up to a year. In exceptional cases, a managing authority can grant itself authorisation for up to 7 days while the assessments for a Standard authorisation are undertaken, i.e. an Urgent application. DoLS can only be authorised where detention under the Mental Health Act (1983) is not appropriate.

The Supreme Court ruling (Cheshire West case) has resulted in a very large increase in the number of applications for DoLS authorisations. This increase has created a backlog for health boards and local authorities.

The House of Lords published a scrutiny report of the Mental Capacity Act 2005[1]. The report concluded that DoLS were "not fit for purpose" and recommended they be replaced. The Law Commission produced a draft report in March 2017 recommending DoLS be repealed and setting out new 'Liberty Protection Safeguards. A full UK Government response is expected in spring 2018.

Summary of analysis and findings

The ongoing lack of a discernable pattern of applications or authorisations across Wales offers little reassurance that the liberty of vulnerable individuals is being consistently safeguarded. A lack of up-to-date national guidance and an inconsistent response by supervisory bodies may be leading to reduction in applications by managing authorities.

Recommendations

1. Seniors managers in supervisory bodies, CIW and Welsh Government to explore opportunities to improve consistency of recording and collection of meaningful performance indicators in relation to deprivations of liberty

2. Supervisory bodies' seniors mangers may want to reassure themselves, through internal audit, that prioritisation tools are not inadvertently removing deprivation of liberty safeguards from the very people the 2014 Supreme Court judgement sought to protect

3. Supervisory bodies should ensure that demand management does not include encouraging under reporting by managing authorities.

[1] See https://publications.parliament.uk/pa/ld201314/ldselect/ldmentalcap/139/13902.htm

Key Findings

Number of applications

- The number of applications has risen 9 percent from last year to 13,627, of which 4,819 were to health boards and 8,811 were to local authorities.
- There were 548 applications for every 100,000 adults in Wales.
- Approximately a third of all requests are for an Urgent authorisation.
- More applications are received each month than can be processed, with three decisions being made for every four applications received.

Authorised applications

- Just over half of Standard applications and a third of Urgent are authorised.
- Nearly 90 percent of applications that were not granted authorisation were withdrawn before a decision was made.
- Of those applications that were refused, mental capacity was the most commonly cited reason for refusal in both local authorities and health boards.

Application Timescales

- The average length of time for an application to receive a decision was 42 days for Urgent and 69 days for Standard applications.
- Over half of authorisations made by local authorities were for a year, whereas the majority made by health boards were for less than six months.
- Fewer than 10 percent of authorised applications ended before their proposed end date, of which the majority were in hospitals.

Demographic Profiles

- The average age for an individual to have had a DoLS application is 79, and almost 60 percent are for females.
- The profile of individuals with a DoLS application largely reflects the population of those receiving support from social services.

Reviews, Representatives, Independent Mental Capacity Advocates (IMCA) and Court of Protection

- 235 (1.6 percent) authorised applications had a review requested.
- Most authorised applications had a family member or relative as a representative.
- 363 authorised applications had at least one IMCA appointed and 69 were referred to the Court of Protection.

Number of applications

Number received

The data collected from health boards and local authorities provides the number of applications received during the 2016/17 financial year. At the end of the year, there were 2,997 DoLS authorisations in place across Wales. The number of applications to both local authorities and health boards has continued to increase, up 9 percent from 2015/16 to 13,627 in 2016/17.

Health boards had an increase in application volumes during 2016/17, with the number of applications increasing by 37 percent from 2015/16 to 4,819, which is approximately double the number received in 2014/15. While the total volume of applications has increased, applications to local authorities has remained steady at 8,811, see Figure 1.

Feedback from health boards is that this increase is partly due to a combination of:

- an increase in demand,
- some health settings providing more long term care for individuals that may have otherwise moved into a care home,
- training leading to increased awareness in hospitals for the need to apply for DoLS authorisations.

Number per 100,000 population

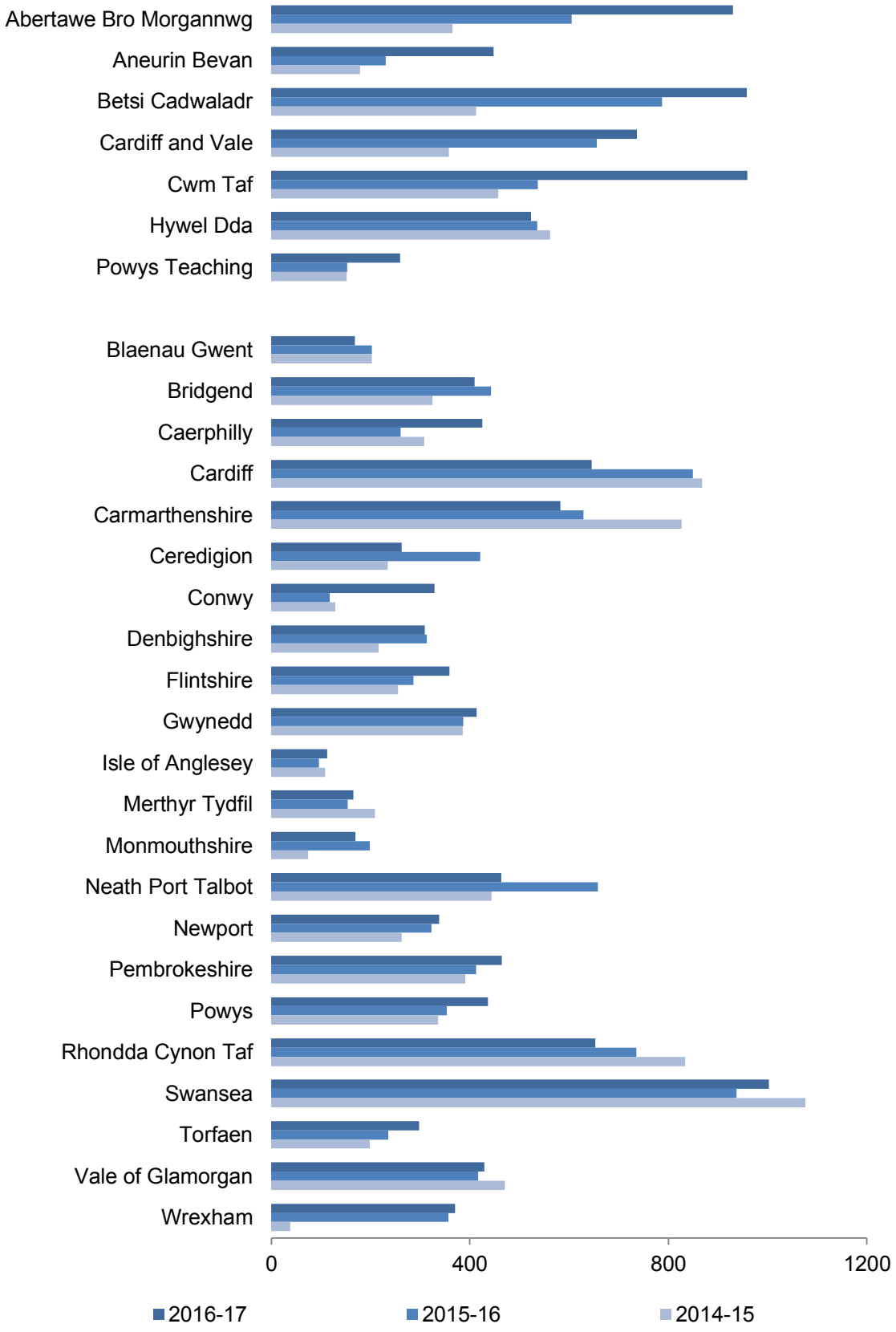
The number of applications received per 100,000 adults (aged 18 or over) in Wales during 2016/17 was 548, which means approximately 1 in every 180 adults have had a DoLS application in 2016/17. This is a combined total between health boards and local authorities, with the average number of applications per 100,000 being 194 for health boards and 355 for local authorities, see Table 1.

There are considerable differences between each of the health boards and local authorities, with the number of applications per 100,000 ranging from 97 in Aneurin Bevan to 407 in Cwm Taf, and in local authorities from 201 in Anglesey to 509 in Swansea.

The number of applications received appears to be strongly related to the number of care home places[2], so that a higher number of places in care homes in a local authority area is related to an increased number of applications This likely represents a larger social care population in that area, more people in care homes and a higher number of hospital admissions which require an application for a DoLS authorisation.

[2] See https://statswales.gov.wales/Catalogue/Health-and-Social-Care/Services-for-Social-Care-and-Childrens-Day-Care/cssiwservicesandplaces-by-localauthority-financialyear-measure

Figure 1. The number of applications received by each local authority and health board from 2014 to 2017



The number of applications per 100,000 population changes dramatically for different age groups, so that the average for those aged 18 to 54 is only 71 applications per 100,000, but for those aged 85 or over it is 7,593. Therefore roughly 1 in 13 older adults over the age of 85 have had a DoLS application. However, this is primarily due to higher proportion of older adults being cared for in care homes, compared to younger adults.

Application type

Where deprivation of liberty is required to commence before a Standard authorisation can be obtained, managing authorities may authorise a deprivation of liberty for seven days[3], i.e. an Urgent authorisation. For other cases, an application for a Standard authorisation must be made to the supervisory body.

On average, 63 percent of all applications were for a Standard authorisation, see Figure 2. Older adults (85 or over) are more likely to have a Standard application than Urgent, at 64 percent of their applications compared to 57 percent for those under the age of 85. Due to the potentially unplanned or emergency care provide by hospitals, a higher proportion of applications to health boards are for Urgent authorisations, with only 35 percent of applications being for a Standard authorisation.

There again appears to be considerable variation between each of the local authorities and health boards in terms of the proportions of Standard and Urgent requests. For example, just over a quarter of the requests sent to Wrexham were Standard, whereas nearly every request to Denbighshire was Standard. Similarly, Hywel Dda and Powys Teaching health boards had very few standard requests and those to Cwm Taf were nearly all standard.

Feedback from the local authorities suggests that these differences are due to the advice being issued to care homes. For example, in Denbighshire, due to the inconsistent use of Urgent applications by care homes, advised that all applications be sent through as Standard only and then each application will be discussed with the relevant care home in order to determine if it requires immediate (i.e. urgent) action.

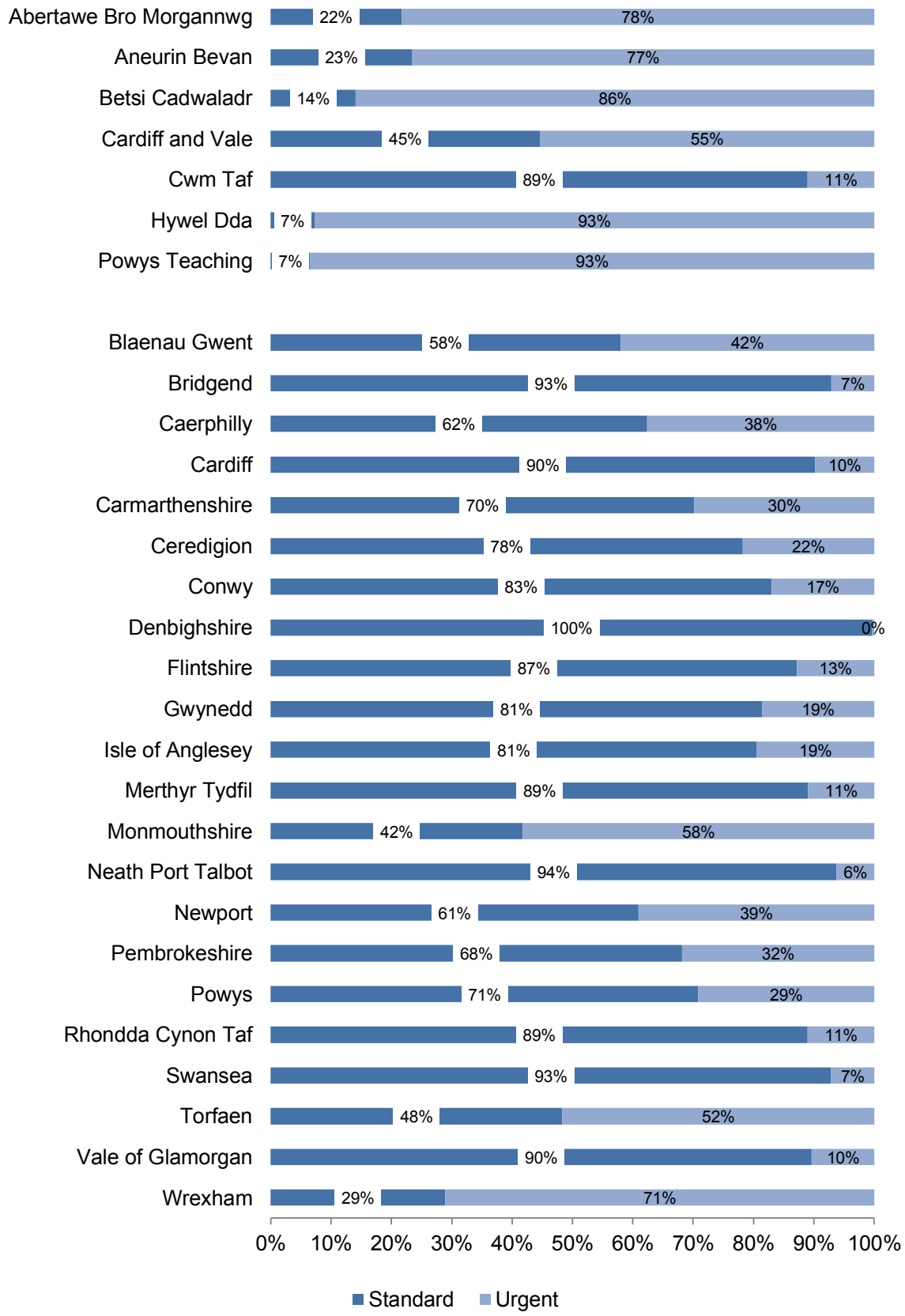
Similarly, the differences in health boards reflect the way in which applications are recorded. Unlike the other health boards, Cwm Taf first assess and discuss the applications with the relevant hospital before recording them as either Standard or Urgent. This results in many inappropriate Urgent applications being amended to Standard before being logged. Other health boards will log the application as Urgent before commencing their discussions and assessments.

[3] An extension for an additional seven days can be sought in some circumstances.

Table 1. The total adult population and number of applications received by each local authority and health board and the number of applications per 100,000 adult population in 2016/2017

	Total 18+ Population	Number of applications	Applications per 100,000
Health Boards			
Abertawe Bro Morgannwg	424,923	930	219
Aneurin Bevan	461,560	448	97
Betsi Cadwaladr	556,595	958	172
Cardiff and Vale	388,986	737	189
Cwm Taf	235,530	959	407
Hywel Dda	309,986	524	299
Powys Teaching	107,664	260	241
HB Average	**355,035**	**688**	**194**
Local Authorities			
Blaenau Gwent	55,915	169	302
Bridgend	114,114	410	359
Caerphilly	142,097	425	299
Cardiff	287,473	646	225
Carmarthenshire	148,522	583	393
Ceredigion	61,720	263	426
Conwy	95,074	329	346
Denbighshire	75,389	309	410
Flintshire	122,395	359	293
Gwynedd	100,135	414	413
Isle of Anglesey	56,243	113	201
Merthyr Tydfil	47,124	165	350
Monmouthshire	75,185	170	226
Neath Port Talbot	113,631	463	407
Newport	115,368	338	293
Pembrokeshire	99,744	465	466
Powys	107,664	437	406
Rhondda Cynon Taf	188,406	653	347
Swansea	197,178	1,003	509
Torfaen	72,995	298	408
Vale of Glamorgan	101,513	429	423
Wrexham	107,359	370	345
LA Average	**112,966**	**401**	**355**
Total	**2,485,244**	**13,627**	**548**

Figure 2. The number of applications received by each local authority and health board by type in 2016/2017



Number in progress

In order for the number of applications received to be manageable, as many need to be processed as are received in a year. If not, the volume is unsustainable, and requests may not receive a decision within the recommended timescales and care homes and hospitals could potentially be waiting long periods without an authorisation.

Due to the format of the data returns, those applications received in 2015/16 are not included in this report. However, throughout the year, the number of DoLS applications received each month exceeded the number receiving a decision; on average, 720 applications receive a decision (or are withdrawn) each month and 1,136 were received. Therefore approximately three applications are processed for every four received. This suggests a quarter of applications received each year will be added to the supervisory bodies' backlog.

In local authorities each application takes on average eleven weeks to process and five and a half in health boards. In order for the number of applications being processed to be more than those received, these times would need to be reduced to eight weeks for local authorities and four weeks for health boards.

Use of prioritisation

In a response to the volumes of applications being made to each local authority, the DoLS team in the Gwent regional consortium developed a tool for prioritising each DoLS application, so that they can be handled in appropriate timescales. This tool was underpinned by legal advice in regard to its legality and appropriateness. The tool was then subsequently amended and issued by the Association of Directors of Adult Social Services as guidance in England[4]. The Wales DoLS Leadership Group also advised that it would be good practice to use a prioritisation tool, and gave this tool as an example.

> *Due to the vast increase in demand for assessments under the Deprivation of liberty safeguards the ADASS task force members have shared practice in relation to prioritisation and produced this screening tool. The aim of the tool is to assist Councils to respond in a timely manner to those requests which have the highest priority. The tool sets out the criteria most commonly applied which indicates that an urgent response may be needed so as to safeguard the individuals concerned. The use of this tool must be balanced against the legal criteria for the Deprivation of Liberty Safeguards which remains unchanged. The criteria should be used as an indicative guide only as it will generally be based on information provided by the Managing Authority in the application and each case must be judged on its own facts. -* ***Association of Directors of Adult Social Services (ADASS) Task Force***

The main focus of this prioritisation tool is to identify those applications where there is a greater time pressure in the need to undertake assessments. For example, the types of applications that are considered higher priority include:

[4] See https://www.adass.org.uk/adass-priority-tool-for-deprivation-of-liberty-requests/

- The need for intrusive care arrangements
- The use of high levels of restriction or supervision
- If the individual is making attempts to leave
- There have been objections from the Relevant Person to the proposed or current support arrangement
- There is a dispute about welfare and best interest perhaps between professionals and the person's family and supporters.

Applications given a lower priority for assessment typically include individuals who are not attempting to leave, have been in the same residence for a prolonged period of time and are settled in their placement. This is because people in these circumstances would not have been regarded as being deprived of their liberty before the 2014 Supreme Court judgment.

While this specific tool is not used by all local authorities and health boards, there is generally some form of prioritisation applied when sorting applications. Other areas have developed their own bespoke tools, which have very similar themes and approach to the ADASS tool. Some areas take a different approach and prioritise Urgent authorisations before allocating Standard applications.

Feedback from some local authorities that use a prioritisation tool suggests approximately 20 percent of applications fall into a higher priority group; half are medium and the remaining 30 per cent into a lower priority group. This means local authorities consider fewer applications to be a high priority than are received as applications relating to an Urgent authorisation.

Authorised applications

When deciding whether an application should be authorised, there are six assessments that must be made (see Glossary). These are:

- Age
- Best Interests
- Mental Capacity
- Eligibility
- Mental Health
- No Refusals

In addition to not meeting the requirements of these assessments, applications may be withdrawn, cancelled, or the person has moved care home or been discharged from the hospital, making the application unnecessary.

On average, just over half of Standard applications and a third of Urgent are authorised[5]. Health boards authorised 32 percent of Standard and 23 percent of Urgent applications. Local authorities authorise on average 54 percent of Standard applications and 34 percent of Urgent, see Figure 3.

In local authorities, there is a positive relationship between the number of applications received per 100,000 adults and the proportion of applications that are authorised, so that the more applications received, the higher the proportion of them that are authorised. However, the opposite is true in health boards.

There is also considerable variation between authorisation rates in both local authorities and health boards. For example, Isle of Anglesey received the fewest number of applications per 100,000 adults and less than one in 10 applications were authorised. On the other hand, Vale of Glamorgan received higher than average number of applications per 100,000 and authorised nearly all of them.

The feedback from local authorities suggests the number of applications authorised is largely due to the awareness and training the care homes have in regards to DoLS. Vale of Glamorgan report the care homes in their area have a high level of awareness and understanding of the DoLS process, and so they only make applications that are relevant and appropriate. This means fewer applications are not authorised.

The vast majority of applications that were not approved were withdrawn before a decision could be made, see Table 2. In fact, roughly 90 percent of all applications that were not approved were withdrawn, which makes up nearly a third of all applications received. While some of these applications were withdrawn for legitimate unforeseen reasons, there are likely many that could have been avoided. The main reasons for applications were withdrawn were because the person:

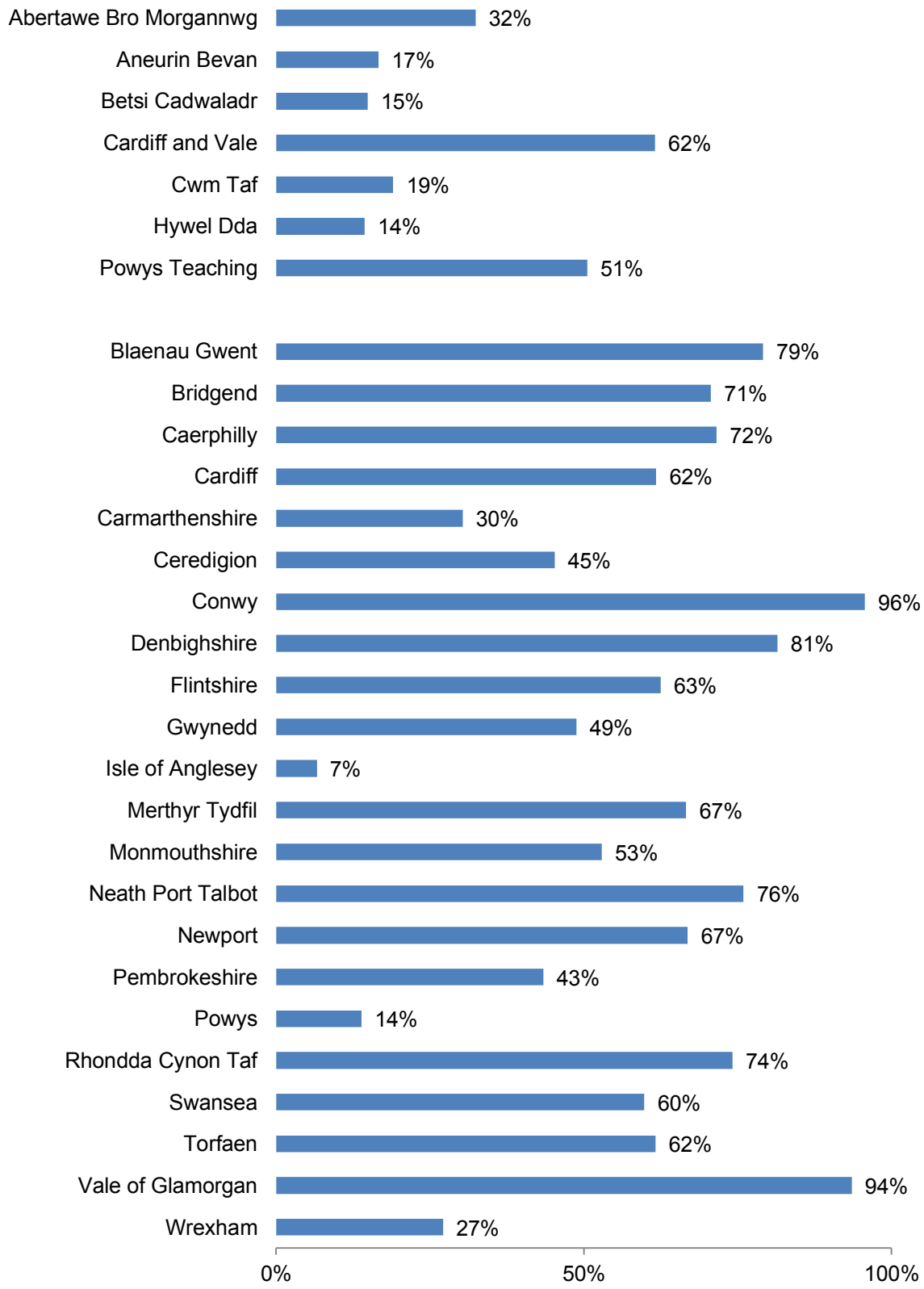
- Had moved home, which means a new application must be made if required
- Had been discharged from hospital
- Had died before a decision has been made
- Has been detained under Mental Health Act

Table 2. The proportion of applications that weren't authorised by local authorities and health boards by reason for refusal in 2016/2017

	Age	Best interest	Eligibility	Mental Capacity	Mental Health	No Refusals	Not a deprivation	Withdrawn
LA	0.0%	1.5%	0.5%	12.6%	0.5%	0.0%	0.3%	84.6%
LHB	0.0%	0.1%	1.6%	5.0%	1.3%	0.0%	0.1%	91.8%
Total	0.0%	0.5%	1.3%	7.4%	1.1%	0.0%	0.1%	89.6%

[5] These results only include applications that were both received in the 16/17 financial year, and had a decision made within the same year. Therefore, many cases were still in progress at the end of the financial year and are not included in these results.

Figure 3. The proportion of applications that were authorised by each local authority and health board in 2016/2017



It appears the main difference in authorisation rates between local authorities and health boards are that more applications are withdrawn from health boards, when compared to local authorities. Also a higher proportion of individuals who had applications to local authorities were found to have mental capacity or an authorisation was not in their best interest, when compared to health boards. In these cases the local authority would decide to seek an alternative solution.

Local authorities report that when an application is received, and is not granted on the basis of mental capacity, it is largely due to a lack of the care homes' awareness and understanding of the DoLS process. This suggests improving advice and available training may result in a reduction in the number of inappropriate applications.

Application Timescales

Assessments relating to Standard applications should be completed by the supervisory body within 21 days. An Urgent application authorises the managing authority to deprive an individual of their liberty for seven days, while the assessments are undertaken.

A Standard authorisation can only begin from the date of decision or on a specified future date. They should not be back dated to the application date, even if it was an Urgent application. The approval can be in place for a period up to a year, after which the managing authority is required to reapply for an authorisation, if necessary

Application to decision

Many Urgent authorisations expire before the required DoLS assessment can be undertaken. This is particularly the case in long term care placements and supervisory bodies report that there is often little correlation between the intrinsic 'urgency' of the circumstances and the use of Urgent authorisations. Supervisory bodies cite a lack of guidance on this issue as the primary cause of the inappropriate use of Urgent authorisations.

Only 14 percent of applications for an Urgent authorisation have been assessed, and a decision made, within 7 days of the application being received; over half took longer than 21 days to have a decision. The average length of time for a decision was 42 days; 34 days for health boards and 46 days for local authorities.

Only 23 percent of Standard applications have been assessed and a decision made within the 21 day requirement. The average is 69 days; 44 days for health boards and 83 days for local authorities. This suggests that despite the use of a variety of prioritisation tools, applications relating to an Urgent authorisation are still being processed more quickly than those for a Standard authorisation. However, on average, neither receives a decision within the required timescales.

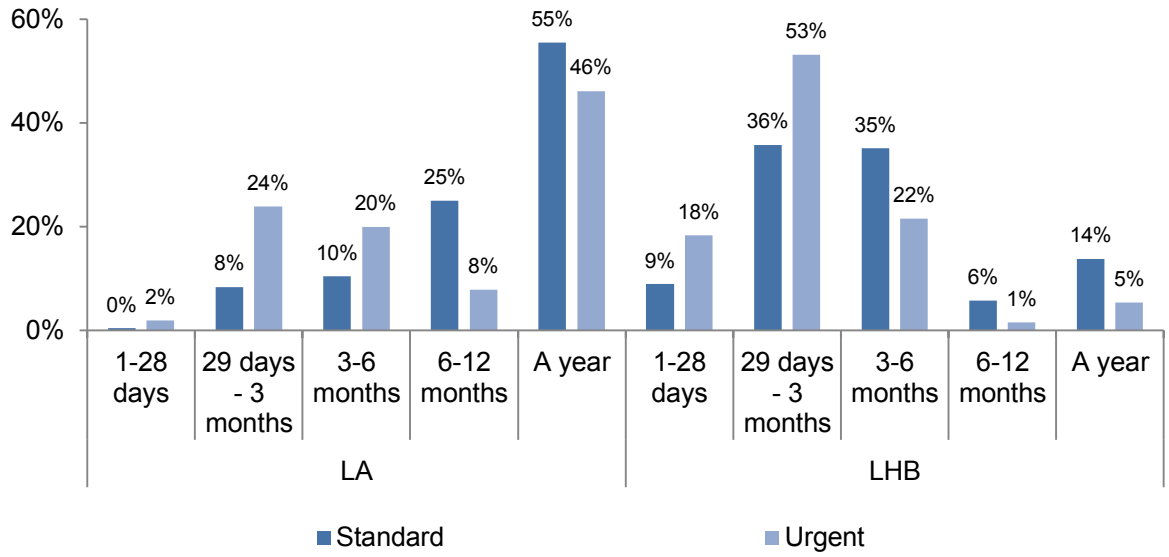
Duration of authorisation

The Code of Practice[6] states any authorisation should be for the shortest possible duration and for only as long as the relevant person will meet the required criteria. Roughly half of all authorisations made by local authorities are for the full year. The majority of authorisations made by health boards are for three months or less, see Figure 4.

While an authorisation requires a proposed end date, it can end before that date for several reasons. Roughly 7 percent of authorised applications were reported to have ended before their proposed date. The majority (85 percent) of these were health board authorised applications, and 17 percent of health board authorisations ended before their proposed dates.

[6] See http://webarchive.nationalarchives.gov.uk/20130104224411/http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_085476

Figure 4. The proposed duration of applications that were authorised by each local authority and health board in 2016/2017



Demographic Profiles

The average age for an individual to have had a DoLS application is 79, and almost 60 percent are for females. This gender difference is expected; the over 85 population in Wales is 65 per cent female, and the over 65 population is 55 percent female. Therefore, the gender differences observed in those who have a DoLS application is largely representative of the population in receipt of care from social services.

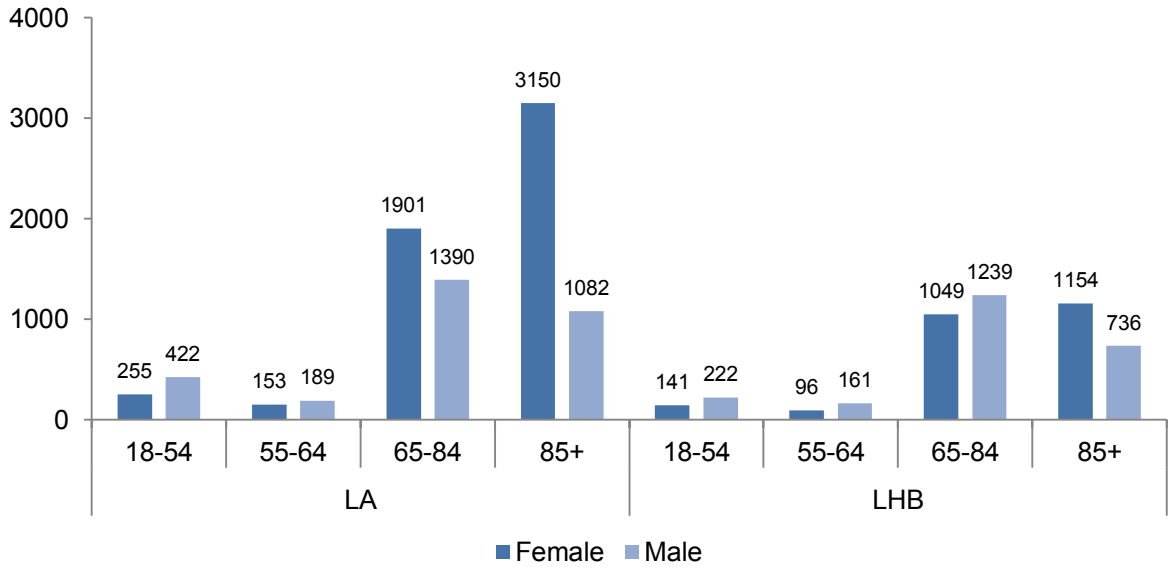
There are some differences between local authorities and health boards, with applications to local authorities tending to be for older females, see Figure 5. Only 0.5 percent of applications are for individuals who are from an ethnic minority.

Reviews, Representatives, Independent Mental Capacity Advocates (IMCA) and Court of Protection

Any authorisation can have a request for a review at any point. This usually occurs when the individual's situation changes or if it is felt the criteria for authorising the application are no longer met. Of the 13,627 applications made in 2016/17, only 235 (1.7 percent) had an application for a review, roughly 50 percent more than in 2015/16. Just over half of these were to local authorities, and nearly three quarters were applied for by the managing authority.

Of the requests that had been authorised, over 80 percent had an identified representative[7]. Of these, roughly two thirds were a family member or relative. The remainder were an IMCA (20 percent), a paid representative (5 percent) or some other independent advocate.

Figure 5. The breakdown of age by gender of the individual in local authorities and health boards for all applications in 2016/2017



IMCAs are a safeguard for people who lack capacity to make some important decisions. The IMCA role is to support and represent the person in the decision-making process and make sure that the Mental Capacity Act 2005 is being followed.

There are three roles for IMCAs in cases of deprivation of liberty (39A, 39C and 39D):

- 39A appointed when the individual has no one to consult;
- 39C appointed in a case where the individual's representative is temporarily or suddenly no longer able to represent them; and
- 39D appointed to support the individual's representative, if that representative is unpaid (e.g. family member), and it is believed by the supervisory body is in need of support.

[7] This figure is potentially an underestimate, as nearly all requests without an identified representative were in Swansea, which suggests a data reporting error. However this error has been noted and actions have been put in place to correct this in future reporting. Swansea stated that all their authorised applications will have an identified representative. In this case, the proportion of all authorised applications with a representative would be approximately 98 percent.

The number of cases where an IMCA was appointed has remained relatively steady since 2015/16, with 363 cases having at least one IMCA appointed. Of these, 256 were 39A (78 percent from local authorities), 25 were 39C (92 percent from local authorities) and 94 were 39D (44 percent from local authorities).[8]

Any deprivation of liberty can be challenged, usually by the individual's representative, in the Court of Protection. A total of 69 referrals to the Court of Protection were made in 2016/17, which is nearly twice the number made in 2015/16 (61 applications to local authorities). This means while less than one percent of all DoLS were referred to the Court of Protection, the increase in both the number of reviews and challenges since the previous year could be viewed as more people being able to have their voices heard and should be welcomed.

A higher proportion of authorisations where the representative is an IMCA (as opposed to a family member or relative), were referred to the Court of Protection. While less than one percent of all DoLS were referred, roughly four percent of individuals with an IMCA representative were referred. Therefore, it may either be that case that IMCAs are more willing to refer cases, or Supervisory Bodies are assigning an IMCA to make sure individuals receive the support they need a referral is made.

Data Quality

The data in this report is used to monitor the use of the deprivation of liberty safeguards throughout Wales. It is submitted by local authorities and health boards to CIW but it is not verified by either CIW or HIW.

The definition of what constitutes a deprivation of liberty was changed in 2014, and so data collected in the 2013/14 financial year is not directly comparable to that collected for the 2014/15, 2015/16 and 2016/17 financial years. More information about the changes introduced can be found here:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/485122/DH_Consolidated_Guidance.pdf

There may be a small number of cases where applications are inappropriately labelled as either standard or urgent and there may be a margin of error in the results.

Feedback on this report

We are keen to hear from the users of our statistics. If you have any comments or queries regarding this publication or its related products, they would very be welcome. Please email the analytical team at: CIW.Analysts@gov.wales

[8] There were 9 cases where more than one IMCA were appointed.

Glossary: Key terms used in the DoLS Monitoring Report

Advocacy	Independent help and support with understanding issues and putting forward a person's own views, feelings and ideas.
Assessment for the purpose of the deprivation of liberty safeguards	All six assessments must be positive for an authorisation to be granted.
• **Age**	An assessment of whether the relevant person has reached age 18.
• **Best interests assessment**	An assessment of whether deprivation of liberty is in the relevant 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. This must be decided by a Best Interests Assessor.
• **Eligibility assessment**	An assessment 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.
• **Mental capacity assessment**	An assessment of whether or not a person has capacity to decide if they should be accommodated in a particular hospital or care home for the purpose of being given care or treatment.
• **Mental health assessment**	An assessment of whether or not a person has a mental disorder. This must be decided by a medical practitioner.

• **No refusals assessment**	An assessment 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 done appointed under a Lasting Power of Attorney.
Best Interest Assessor	A person who carries out a deprivation of liberty safeguards assessment.
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.
Care Home	A care facility registered under the Care Standards Act 2000.
CIW	Care Inspectorate Wales is the body responsible for making professional assessments and judgements about social care, early years and social services and to encourage improvement by the service providers.
Carer	People who provide unpaid care and support to relatives, friends or neighbours who are frail, sick or otherwise in vulnerable situations.
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.

Consent	Agreeing to a course of action-specifically in this report 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.
Court of Protection	The specialist court for all issues relating to people who lack mental capacity to make specific decisions. It is the ultimate decision maker with the same rights, privileges, powers and authority as the High Court. It can establish case law which gives examples of how the law should be put into practice.
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.
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

Gwent consortium	The Gwent consortium is the Deprivation of Liberty Safeguards Team commissioned by the following Organisations who, under the Mental Capacity Act 2005 Deprivation of Liberty Safeguards (2009) are known as 'Supervisory Bodies' in relation to their functions under the Act: • Aneurin Bevan University Health Board • Blaenau Gwent County Borough Council • Caerphilly County Borough Council • Monmouthshire County Borough Council • Newport City Council • Torfaen County Borough Council
HIW	Healthcare Inspectorate Wales (HIW) regulates and inspects NHS services and independent healthcare providers in Wales against a range of standards, policies, guidance and regulations on order to highlight areas requiring improvement. .
Local Health Board	Local Health Boards fulfil the supervisory body function for health care services and work alongside partner local authorities, usually in the same geographical area, in planning long-term strategies for dealing with issues of health and well-being. They separately manage NHS hospitals and in-patient beds, when they are managing authorities.
Independent Hospital	As defined by the Care Standards Act 2000 - a hospital, the main purpose of which is to provide medical or psychiatric treatment for illness or mental disorder or palliative care or any other establishment, not being defined as a health service hospital, in which treatment or nursing (or both) are provided for persons liable to be detained under the Mental Health Act 1983.

Independent Mental Capacity Advocate (IMCA)	A trained advocate 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 whose functions are defined within it.
Local Authority/Council	The local council responsible for commissioning social care services in any particular area of the country. Senior managers in social services fulfil the supervisory body function for social care services. Care homes run by the Council will have designated managing authorities.
Managing authority	The person or body with management responsibility for the particular hospital or care home in which a person is, or may become, deprived of their liberty. They are accountable for the direct care given in that setting.
Maximum authorisation period	The maximum period for which a supervisory body may give a standard deprivation of liberty authorisation, which cannot be for more than 12 months. It must not exceed the period recommended by the Best Interests Assessor, and it may end sooner with the agreement of the supervisory body.

Mental Capacity Act 2005	The Mental Capacity Act 2005 provides a framework to empower and protect people who may lack capacity to make some decisions for themselves. The five key principles in the Act are: 1. Every adult has the right to make his or her own decisions and must be assumed to have capacity to make them unless it is proved otherwise. 2. A person must be given all practicable help before anyone treats them as not being able to make their own decisions. 3. Just because an individual makes what might be seen as an unwise decision, they should not be treated as lacking capacity to make that decision. 4. Anything done or any decision made on behalf of a person who lacks capacity must be done in their best interests. 5. Anything done for or on behalf of a person who lacks capacity should be the least restrictive of their basic rights and freedoms.
Mental Capacity Act Code of Practice	The Code of Practice supports the MCA and provides guidance to all those who care for and/or make decisions on behalf of adults who lack capacity. The Code includes case studies and clearly explains in more detail the key features of the MCA
Mental Disorder	Any disorder or disability of the mind, apart from dependence on alcohol or drugs. This includes all learning disabilities.
Mental Health Act 1983	Legislation mainly about the compulsory care and treatment of patients with mental health problems. It includes detention in hospital for mental health treatment, supervised community treatment and guardianship.

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.
Relevant hospital or care home	The particular hospital or care home in which the person is, or may become deprived of their liberty.
Relevant person	A person who is, or may become, deprived of their liberty in a hospital or care home.
Relevant person's representative	A person, independent of the particular hospital or care home, appointed to maintain contact with the relevant person and to represent and give support in all matters relating to the operation of the deprivation of liberty safeguards.
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.
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.
Section 12 Doctors	Doctors approved under Section 12(2) of the Mental Heath Act 1983
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 a particular hospital or care home.

Supervisory body	A local authority social services or a local health board that is responsible for considering a deprivation of liberty application received from a managing authority, commissioning the statutory assessments and, where all the assessments agree, authorising deprivation of liberty.
Supreme Court	The Supreme Court is the final court of appeal in the UK for civil cases, and for criminal cases from England, Wales and Northern Ireland. It hears cases of the greatest public or constitutional importance affecting the whole population
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.
Urgent authorisation	An authorisation given by a managing authority for a maximum of seven days, which subsequently may be extended by a maximum of a further seven days by a supervisory body. This 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.