

LSCP factsheet: Deprivation of Liberty Safeguards (DoLS)

What is a deprivation of liberty (DoL)? Both adults and children can be deprived of their liberty and the deprivation of liberty safeguards can apply to anyone. For the purpose of this factsheet, we will just reference children. A child is considered deprived of their liberty if:

- They are under continuous supervision and control; and
- They are not free to leave; and
- They do not, or cannot, consent to the situation; and
- The situation is not consented to by someone with legal authority.

What does ‘continuous supervision and control’ mean? *Supervision and control* might include not leaving the child alone, making decisions about their daily life (like when they can eat, sleep and go out), putting strict limits on contact with family or friends or heavily restricting their freedom of movement (like locking doors, putting alarms on doors or other physical barriers). *Continuous* doesn’t have to mean every minute of every day, but that the overall impact on the child is significant.

What does ‘not free to leave’ mean? If they are required to be in a place or to receive care/treatment and would be prevented from leaving *if they tried to do so* (it doesn’t matter if they do try to leave or not).

What does it mean that they do not, or cannot, consent? They might flat out object to or protest the deprivation. However, they might also seem compliant but due to a lack of capacity be unable to legally consent. For example, might be too young to make informed decisions or they might have a disability or mental health condition that impairs their decision-making ability.

Who has legal authority to consent to the situation? Parents and carers *do* have legal authority to consent to the situation. A DoL only exists where the ‘state’ is responsible for a child being under continuous supervision and control, where they are not free to leave and where they do not, or cannot, consent to this. For a DoL to be legal, the state must be given legal authority either by existing law or by applying for a court order. When children are looked after by the Local Authority as their corporate parent, the Local Authority must ensure that any DoL is legal. The process prescribed in law is known as the Deprivation of Liberty Safeguards (DoLS).

What legal authority does the state have under existing law? Some deprivations of liberty in specific situations are allowed and authorised under law, for example:

- Children placed in secure accommodation under S25 of the Children Act 1989;
- Children detained for mental health emergency, assessment or treatment under the Mental Health Act 1983;
- Children remanded into custody under the Legal Aid, Sentencing and Punishment of Offenders Act 2012;
- Children given a custodial sentence under the Power of Criminal Courts (Sentencing) Act 2000.

How does the state obtain legal authority outside of existing law? The Local Authority must make an application to the Court for a Deprivation of Liberty Order. If granted, the court will authorise this for as short a time as possible and, in all circumstances, for a maximum of 12 months. Every order must have an end date attached.

What should I do if I am worried a child might be experiencing deprivation of liberty? If you have identified a potential DoL (i.e. a child subject to continuous supervision and control who is not free to leave and cannot, or does not, consent where the state has no legal authority for the deprivation):

- If you are acting for ‘the state’, normally for the local authority in the allocated social work team, you *must* seek legal advice;
- If you are an involved worker, you should check with the local authority social work team if legal advice or authority has been obtained, and if not escalate the concern using the LSCP Multiagency Escalation Pathway.

Further reading:

- [Lambeth Children’s Services Procedures Manual: Deprivation of Liberty](#)