



ADMISSION AGREEMENT

Key Personal Information	
Home:	BELVEDERE HOUSE ROYAL ALFRED SEAFARERS' SOCIETY
Resident's Full Name:	
Date of Birth:	
Date of Admission:	
Room Number:	
Funding Authority (local authority):	
Resident's Representative Full Name:	
Address:	
Tel:	
Third Party: ¹	
Address:	
Tel:	
Next of Kin Full Name:	
Address:	
Tel:	
General Practitioner (GP) Full name	
Address of Surgery:	
Tel:	

¹ Insert if relevant

Any social or cultural traditions applicable to the Resident				
Funding of Placement				
	Private Placement		Funded Placement	
Weekly contributions to be paid to the Home		Resident's contribution	£	Funding from the Funding Authority
	Identity of Payer: Resident/Resident's Representative/Third Party ²		£	Resident's contribution
			£	Top-Up paid by the Third Party ³
Extra Care requirements (initial assessment)				
Total weekly cost of placement				
The Home will fund the difference between the weekly cost of care the Home provides and the weekly contributions that we charge unless the resident is in the receipt of FNC, in which case we will not make a refund but the resident will fund the difference.				

² Delete as applicable

³ The Third Party is a person or organisation who has agreed to contribute towards the weekly costs of the Resident's placement by way of a Top-Up. The Third Party may be the Resident's Representative, a family member or another person.

THIS AGREEMENT is made on the day of 2019.

BETWEEN

(1) Belvedere House, Royal Alfred Seafarers' Society, Weston Acres, Woodmansterne Lane, Banstead, Surrey SM7 3HB (**The Society**)

AND

(2) **NAME OF RESIDENT** (You)

Introduction

When you enter Belvedere House, we will endeavour to care for you in every way possible, encouraging a positive and harmonious relationship between you, your family and friends and the Home's staff.

This Agreement is between Belvedere House, Royal Alfred Seafarers' Society (**The Society**) and **NAME OF RESIDENT**

This Agreement sets out the terms under which you will reside in Room No. **NUMBER** at Belvedere House and under which you will be entitled to accommodation, care services and "hotel" services.

You should read this document in full and carefully before signing.

We undertake to operate in accordance with the Care Standards Act 2000, Health & Social Care Act 2008 and Care Act 2014 and Regulations under those Acts. A copy may be inspected at the Home, upon request.

Status of the Home

Belvedere House is registered as a Care Home providing nursing care with the Care Quality Commission, South East Region, Citygate, Gallowgate, Newcastle upon Tyne NE1 4PA (the **Home**)

Medical Declaration by You:

In the event that I require medical assistance I instruct that you may contact my general practitioner (GP) or any other NHS GP, should my GP be unavailable. I undertake to pay any reasonable fees and related expenses incurred by you in carrying out my instructions. I understand that in an emergency it may be necessary in my best interests for you to override these instructions.

Residence and Payment of Residential Fees

1.1 Upon payment of the weekly charge (see clause 2 below) The Society undertakes to provide:

- Hotel services (accommodation, food, light, heat and laundry) at a cost of
- Personal care services at a cost of
- Health care services at a cost of

1.2 The weekly charge shall be £ or £ () Please refer to the cover pages table for further detail.

is payable four weeks in advance by cheque or bankers' order which it is agreed shall cover the provision of all services referred to in clause 1 above. The charge shall remain unchanged

unless one month's written notice is given by The Society or this Agreement is jointly amended by all parties thereto subject to paragraph 13 of this agreement.

1.3 Anything not included in clause 1.1 is excluded, for example, the following:

- a) specialist furniture including profile beds, electronically operated chairs or other bespoke items. Regular servicing and maintenance of any specialist furniture in your room will be the responsibility the provider of the equipment;
- b) drinks at the bar, meals for visitors, dry cleaning, hairdressing, chiropody, hand and foot massage, dental/optical (outside those of the National Health Service), newspapers, clothing, toilet requisites and other items of luxury or other personal nature;
- c) the costs of installing a private telephone and internet connection in your room. If you would like a telephone/telephone line and/or internet connection in your room please notify us and we will help to arrange the installation where possible. Any calls made from a private phone and internet usage will be subject to the respective service providers' terms, conditions and costs; outings organised by us or third parties, taxi services, professional hired entertainers and activities which require materials;
- d) alcoholic beverages and fizzy drinks;
- e) meals and refreshments outside of the Home;
- f) clothing labels and alterations;
- g) optician fees and costs.

1.4 If you ask for any of the additional services listed above we will take reasonable care in selecting external service providers to provide the additional services directly to You at the Home and will give reasonable assistance to You and the Resident's Representative should a concern or a dispute arise in connection with those additional services.

1.5 Whilst we are happy to help with arranging additional services, we do not provide them directly to you and any contract for additional services must be made directly between You or Resident's Representative and the external contractor. Fees for any additional services or items can be paid directly by you to the relevant service provider. Alternatively, in some instances we may agree to the fees being charged on our monthly invoice in addition to our normal fees in accordance with clause 1.2 of the Agreement.

Resident's Capacity

2.1 The Resident's care plan will say whether he or she has, or appears to have, as at the date of this Agreement, legal capacity to enter into this Agreement and whether he or she has granted any form or power of attorney to another person or whether the Court of Protection has appointed a deputy to act on behalf of the Resident or application has been made to Court of Protection for appointment of a deputy.

2.2 A guiding principle under the Mental Capacity Act 2005 is that we should always assume that you have the capacity to make day to day decisions, unless there is clear evidence otherwise. We will keep the Resident's capacity to make day to day decisions under review on a decision specific basis. We are not legally permitted to take the wishes of the Resident's Representative as being the Resident's wishes, unless the Resident's Representative has clear legal authority to make the decision in question and we have been provided with evidence of this from the Resident or the Resident's Representative which satisfies us of this authority.

2.3 If a significant decision needs to be made and it appears to us that the Resident lacks the capacity to make the decision for him or herself, we may organise a multi-agency meeting (to which the Resident, the Resident's Representative, the independent mental capacity advocate

(IMCA) if one has been appointed and the local authority will normally be invited) to try to come to a conclusion concerning their capacity and, if appropriate, to make the relevant decision. The Resident and the Resident's Representative will be given reasonable notice of such a meeting. In some cases, we may need to involve the Court of Protection.

- 2.4 If your local authority has agreed to pay all or part of the price of our services on your behalf, you may be responsible for any shortfall should there be one. If you cease to be entitled to local authority or NHS funding and continue to receive care from us you will be responsible for our fees.
- 2.5 If the amount of your local authority's contribution to our fees, together with your own contribution is less than The Society's fees, a third party (such as a family member) may agree to pay the shortfall or "top up" your contribution to the level of our fees (**Top-Up**).
- 2.6 The third party agrees to pay the Top-Up in accordance with the terms of this agreement.

Funding Authority

- 3.1 Since its Royal Charter requires the Society to primarily care for seafarers, as defined within it, if you are from a non-seafarers' background you are required to be fully self-funded. Our Royal Charter does not allow us to fund or part fund non seafarers
- 3.2 If a Funding Authority contributes towards our fees, you agree that the contribution will be collected by us directly from the Funding Authority.
- 3.3 If you have entered into a 12 week property disregard or deferred payment arrangement with the Funding Authority and this comes to an end, you will (unless the Funding Authority funds the placement from thereon) be required to pay the full rate for a private room.
- 3.4 If at any time during Your placement at the Home, you seek to become entitled to payment of all or part of our fees by a Funding Authority (Local Authority, Social Services or the NHS) or to change from funding by Social Services to NHS continuing health care funding (**NHS CHC**), the following provisions apply:
 - a) you will remain ultimately responsible for our fees;
 - b) you and/or the Resident's Representative should notify us in writing as soon as an application for re-assessment by the Funding Authority is made. Assessments can take several months to complete and, where you are applying for funding for the first time, we advise you to apply in good time;
 - c) whilst you shall always remain ultimately responsible for our fees, once we have a binding agreement in place with the Funding Authority for the payment of all or part of your fees, we will offset any Funding Authority contribution paid on your behalf and received by us against relevant invoices for the services we provide to you. Should you cease to be entitled to funding you will be required to resume payment of our fees;
 - d) we charge different rates for different standards of rooms at the Home. If the fees paid by the Funding Authority are not sufficient to meet our charges for your current room, then either the difference may be met by a Third Party or we may require you to move to another room;
 - e) if the Funding Authority awards funding to you retrospectively, we will provide you with a refund of our fees paid to date only once we have received cleared funds from the Funding Authority and the Funding Authority has provided us with full details of the amount of their funding and your contribution.
 - f) If you are funded by a Funding Authority and any of the terms of this agreement conflict with the terms of the Funding Authority's agreement with the Home, the relevant terms of the Funding Authority's agreement shall take precedence.

- 3.5 Third parties who agree to meet Residents' fees in whole or in part must sign page 13 of this Agreement before the said person becomes a Resident.

Interest

4. The Society reserves the right to charge interest for monies owed past 30 days on the overdue amount at the rate of 4% a year above the base lending rate of the Bank of England which changes from time to time. This interest shall accrue on a daily basis from the due date until the date of actual payment of the overdue amount, whether before or after judgment. You must pay us interest together with any overdue amount.

What to do if you think an invoice or your monthly standing order are wrong.

5. If you think an invoice or your monthly Standing Order is wrong please contact us promptly to let us know and we will not charge you interest until we have resolved the issue.

Standard of care

- 6.1 The Society undertakes to maintain a standard of care as required by the Care Standards Act, the Care Act 2014 and the Health & Social Care Act 2008 pursuant Regulations and standards required by the Commissioning Authority. If an occasion should occur where a complaint or query arises the Resident is referred to the Home's written procedure for dealing with complaints. The Society will be pleased to help in every way possible. If the complaint is not resolved the Resident may wish to refer to the Commissioning Authority whose address is South East Region, Care Quality Commission, Citygate, Gallowgate, Newcastle upon Tyne NE1 4PA.
- 6.2 No tenancy of any kind is intended to be created in respect of the room and the control of the room occupied by You shall remain with us.
- 6.3 We may offer you alternative accommodation within the Home if we reasonably consider it to be in your best interests or safety. You and/the Resident's Representative shall be consulted by us and shall, where possible, be given four weeks' notice of any proposed changes of room, the reason for the proposed change and any adjustment to the fees. We will always endeavour to provide four weeks' notice of any change but reserve the right to reduce the notice period where a care review has indicated that the change is necessary to ensure your continued safety. We will not relocate you to a different room without your permission. If the room you move to is more expensive than your current room the higher rate may apply. If the room is less expensive than your current room we will refund the difference.
- 6.4 If we are unable to continue to provide the accommodation currently offered to you and you are unwilling to agree to the proposed change of room, you may end this agreement on 1 months' notice in accordance with clause 12.

Standard of behaviour

- 7.1 What standard of behaviour is expected of Residents? You agree:
- a) to abide by the Home's rules and policies details of which can be obtained from the Home Manager;
 - b) to observe all meal times, unless prior notice is given to us;
 - c) all absences to be notified to us in reasonable time unless in relation to something which is an emergency situation in which case we should be notified as soon as You, the Resident's Representative or a family member is able to;

- d) to follow the reasonable directions of the Home's staff;
- e) not to offer gifts or bequests to members of the Home's staff;
- f) to be polite and courteous to other residents, visitors and staff members;
- g) not to act in a manner that causes or is likely to cause harassment, alarm or distress to any other resident or staff member; and
- h) not to engage in conduct capable of causing nuisance or annoyance to any person in relation to their occupation of the Home.

7.2 The home has a general no smoking policy for Residents, staff and visitors. The home has designated smoking areas for Residents who wish to smoke. All smoking areas are outside of the Home's building and at least 1m away from any open doors or windows. Please ask a member of our staff for more details on smoking arrangements.

7.3 We can amend the home's rules and policies of each from time to time. If we do so you and the other residents will be consulted and given 4 weeks' notice of any material changes. If you object to the changes you may terminate the agreement with us in accordance with clause 12.

Summary of your key legal rights

8.1 This is a summary of your key legal rights. These are subject to certain exceptions. For detailed information please visit the Citizens Advice website www.adviceguide.org.uk or call 03454 040506.

8.2 The Consumer Rights Act 2015 says:

- a) you can ask us to repeat or fix a service if it's not carried out with reasonable care and skill, or get some money back if we can't fix it.
- b) if you haven't agreed a price beforehand, what you're asked to pay must be reasonable.
- c) if you haven't agreed a time beforehand, it must be carried out within a reasonable time.

8.3 The Human Rights Act 1998 says:

where we are deemed to be a public authority you are entitled to your Convention Rights under the European Convention on Human Rights. These include for example, the right to life, right to liberty and security, right to respect for private and family life, and prohibition of discrimination.

8.4 **Summary of your legal rights.** See above for a summary of your key legal rights in relation to the services. Nothing in these terms will affect your legal rights.

Hospital treatment or death

9.1 The Home will be the abode of the Resident. Should a Resident at any time require hospital treatment, The Society will retain the accommodation for one month at the full current fee, after which time a 20% reduction will be allowed, unless one month's notice of termination of agreement is given by either party to the other.

9.2 Where you are funded by a Funding Authority, the terms of our contract with the Funding Authority will apply in respect of your absence/death.

9.3 In the event of death, outstanding fees will be calculated to the date of death, plus three days.

Storage of personal belongings

- 10.1 The Home reserves the right to charge its weekly residential fees, pro rata, if the room is not cleared within 7 days of the death. We will try to store items at the Home but bulky items may have to be stored off site. We will charge a fee for removal of such items for storage and a fee per day for storage off site depending on the size and quantity of the items to cover our costs in obtaining the storage. We will inform the Resident's Representative or next of kin of the charges before the personal possessions are stored. If your personal possessions have not been collected after one month of the termination of the Contract, we will make reasonable efforts to contact your Resident's Representative or next of kin for instructions. If we do not receive any instructions in relation to storage within 14 days of the Home requesting instructions we will be entitled to treat the possessions as abandoned and attempt to sell them. If we can sell them we will deduct our reasonable costs and the remaining proceeds of sale will be returned to the resident's estate or their personal representatives. If we cannot sell them we may donate them to charity or dispose of them.
- 10.2 Should the room be re-let before the end of the 3 days in respect of which fees have been paid, we will refund on a pro rata basis fees for which you have not received any service to your estate within 28 days of the your death.
- 10.3 Should the room be re-let before the end of the 3 days after the date of death of the Resident, we require that personal possessions be removed within 3 days following the death. If this is not possible, we will clear the room and store items. There will be a reasonable storage charge of £20 per day.

Temporary or respite placement

- 11.1 The first four weeks of admission shall be regarded as a trial period in order to ensure that the placement is fully adequate and satisfactory to all concerned parties (**Trial Period**). If you are ending the agreement in the first 4 weeks Trial Period, you may end the agreement by giving us 7 days' notice. The Agreement will end immediately after the expiry of this time and we will refund you in full for any services which have not been provided.
- 11.2 If you are a resident at the Home for a fixed term temporary placement the Agreement will come to an end on the final day of that fixed term unless we agree to extend your stay. If your stay is extended by another temporary fixed term placement that Agreement will come to an end on the final day of that fixed term. If your stay is extended on an open ended or on-going basis then you may end the Agreement within the first 4 weeks by giving us 7 days' notice in accordance with 10. If you and the Home agree to extend your stay beyond the first 4 weeks then you may end the Agreement after this time in accordance with clause 12 of this Agreement.

Termination

- 12.1 This Agreement shall continue in force until terminated by either party giving to the other written notice one month before termination. Should You leave the Home without giving the required notice, payment of one month's fees in lieu of notice at the normal monthly rate will be required.
- 12.2 The Society may give notice, as outlined in clause 12.1 above, requiring the Resident to leave the Home under the following circumstances:
- a) Non-payment of fees
 - b) If, having consulted the Resident and taken advice from the appropriate members of the primary health care team, e.g. general practitioner, community nurse or social worker,

- concerning the present and future care needs of the Resident, The Society is no longer able to meet the Resident's needs, and
- c) Any circumstances or behaviour which The Society feels may be seriously detrimental to You, the Home or welfare of other residents.

Our Rights To Make Changes

13.1 Minor changes to the services. We may make minor change the services:

- a) to reflect changes in relevant laws and regulatory requirements; and
- b) to implement minor technical adjustments and improvements, for example to address a health and safety issue;
- c) provided these changes will not affect your use of the services.

13.2 More significant changes to the services and these terms. In addition, we may make the following changes to these terms or the services, but if we do so we will give you at least four weeks written notice before the implementation of any significant changes and we will not go ahead with such changes without agreement from you or your Representative. You may then contact us to end the contract before the changes take effect in accordance with clause 12 of this contract:

- a) Increase your fees annually in line with the retail prices index;
- b) Increase or decrease your fees and the change the services if, as a result of a re-assessment or care review, your needs change and an increased or decreased level of care is required to meet those needs;
- c) Increase or decrease your fees should it be necessary or desirable to change your room; and
- d) Increase your fees if material changes to legal requirements, the regulation of the Home, local workforce market, insurances, other external cost pressures or any exceptional circumstances outside of our control result in an increase in the Home's costs.

13.3 Where as a result of any care review there is a change in your care needs the fees payable will be adjusted upwards or downwards accordingly.

Medical and Personal Requirements

14.1 Residents will be required, before taking up residence, to provide information to The Society on the state of their health, any treatment and medication required and the name of their medical advisor.

14.2 The Resident or, where appropriate, his or her representative may request The Society to take charge of and administer all the Resident's prescribed medications. If a Resident elects to retain and administer his or her own medication the staff will be required to carry out a risk assessment following which they will be asked to sign an undertaking to comply with the Home's policy for residents who self-medicate. A copy is available on request from the Home's Manager. Medications must be kept locked in the drawer provided in the resident's bedroom. The Society cannot accept responsibility for the misuse of medications which are kept by any Resident.

Personal Effects and Personal Mobility

15.1 Residents are free to leave the home unaccompanied but for safety reasons are requested to advise the staff when they leave and return. However, The Society cannot accept

responsibility for a Resident's safety away from the home unless the journey and any necessary supervision were arranged by the Home.

15.2 All electrical items brought by Residents on admission or during occupation of the Home shall be first inspected as to their safety by the Home's maintenance staff before their use.

15.3 At the discretion of the Manager items of furniture may be brought in by the Resident subject to inspection as to condition and defects liable to render the article unsafe or unfit. Transportation, insurance and eventual removal of such items shall be the Resident's responsibility or that of their Executors.

Insurance

16.1 The Home is insured to a maximum of £2,500 per person for valuable effects left in the Resident's room or in safekeeping on the premises, but insurance cover does not extend to the Resident's cash securities and monies, or any items with an individual value exceeding £1,000.

16.2 All valuable assets must be declared to the Manager upon admission for insurance purposes. The Manager may be able to arrange safekeeping on the premises but the insured value limit of £2,500 will continue to apply.

Our responsibility for loss or damage suffered by You

17.1 We are responsible to you for foreseeable loss and damage caused by us. If we fail to comply with these terms, we are responsible for loss or damage you suffer that is a foreseeable result of our breaking this agreement or our failing to use reasonable care and skill, but we are not responsible for any loss or damage that is not foreseeable. Loss or damage is foreseeable if either it is obvious that it will happen or if, at the time the agreement was made, both we and you knew it might happen.

17.2 We do not exclude or limit in any way our liability to you where it would be unlawful to do so. This includes liability for death or personal injury caused by our negligence or the negligence of our employees, agents or subcontractors; for fraud or fraudulent misrepresentation; for breach of your legal rights in relation to the services as summarised at clause 1.1

Data Protection and Data Processing

18.1 We will only use your personal information as set out in the Home's privacy policy.

Other important terms

19.1 **We may transfer this agreement to someone else.** We may transfer our rights and obligations under these terms to another organisation. We will contact you to let you know if we plan to do this and consult with the other residents of the Home also. If you are unhappy with the transfer you may contact us to end the contract within 4 weeks of us telling you about it and we will refund you any payments you have made in advance for services not provided.

19.2 **If a court finds part of this contract illegal, the rest will continue in force.** Each of the paragraphs of these terms operates separately. If any court or relevant authority decides that any of them are unlawful, the remaining paragraphs will remain in full force and effect.

19.3 **Even if we delay in enforcing this contract, we can still enforce it later.** If we do not insist immediately that you do anything you are required to do under these terms, or if we delay in taking steps against you in respect of your breaking this contract that will not mean that you do not have to do those things or prevent us taking steps against you at a later date. For

example, if you miss a payment and we do not chase you but we continue to provide the services, we can still require you to make the payment at a later date.

19.4 **Which laws apply to this contract and where you may bring legal proceedings.** These terms are governed by English law and you can bring legal proceedings in respect of the services in the English courts.

In the Event of an Emergency

20.1 The Resident is asked to supply the following information to assist The Society in the event of an emergency or termination of accommodation:

(a) name, address and telephone number of next of kin

.....
.....

(b) any social or cultural traditions that the Resident requires to be kept.....

.....
.....
.....

(c) any particular wishes of the Resident concerning funeral arrangements.....

.....
.....
.....

IMPORTANT NOTICE

21.1 Before signing this Resident's Agreement, you should ensure that you have read and understood both this Resident's Agreement and the terms of residence. If you do not understand anything in the Resident's Agreement and the terms of residence, we recommend that you take professional advice.

THIS AGREEMENT IS MADE BETWEEN:

SIGNED..... for THE SOCIETY

SIGNEDRESIDENT

SIGNED..... RESIDENT'S
REPRESENTATIVE as attorney/ or deputy for resident

.....DATE

THIRD PARTY GUARANTEE

22.1 In the case of a resident whose fees are paid in whole or in part by a third party the undersigned appointee, representative or next of kin hereby agrees to pay the fees or any arrears which may fall due including any Top Up of fees. .

Signed Date

Capacity

Address

.....



Mental Capacity Act and Deprivation of Liberty Safeguards

The **Mental Capacity Act of 2005** and **Deprivation of Liberty Safeguards (DoLS)** are both 'hot' topics within the care sector at the moment. However, not everyone understands the content of the Act or the implication of lost capacity.

The following is a guide to help those looking for residential care, make sense of what can be confusing terminology.

What is the Mental Capacity Act?

The Mental Capacity Act 2005 states that if a resident has capacity, they should be consenting to their own care and treatment. Care homes must do all they can to support residents to provide consent for themselves.

What is Deprivation of Liberty Safeguards (DoLS)

If a resident does not have capacity to agree to their admission into the care home; Deprivation of Liberty Safeguards are requested by the care home and authorised by the Local Authority ensuring that the least restrictive practice is being applied.

How do you define capacity to make a decision?

A resident could have the capacity to make some decisions, but not others. This means that consideration of whether a resident has the capacity to provide consent, or make a decision, has to be made for each aspect of their care and treatment.

What happens if a resident does not have capacity?

If a resident does not have capacity, only someone with a valid Lasting Power of Attorney for Health and Welfare can make a decision on the person's behalf in respect of their care, treatment or place of residency. If this is not the case, a decision will be made in the resident's best interest and must include relevant members of the multi-disciplinary team and people close to the resident who will know their wishes in respect of the decision(s) being made.

What happens if I have Power of Attorney?

There are two types of Lasting Power of Attorney, one for Health and Welfare and a separate one for Property and Finance. Only if you hold an LPA for Health and Welfare can you make decisions in respect of the person's health, care, welfare and living arrangements. LPA for Property and Finance is only in respect of property and finance and an Enduring Power of Attorney is only in respect of finances

What if I need more information?

Please ask the admin team for a copy of "Mental Capacity Act 2005 Deprivation of Liberty Safeguards: A guide for family, friends and unpaid carers"

Quick Guide to Deprivation of liberty Safeguards (DoLS)

What does deprivation of liberty mean?

Sometimes people who lack capacity to decide for themselves, need to receive care or treatment in a hospital, care home or in a setting such as Supported living and the only way they can get the care or treatment they need and be safe is for there to be restrictions in place.

The Human Rights Act (HRA) tells us that no one can be "deprived of their liberty" except in certain situations and only when very specific procedures are in place which must be used. This is to protect people from being deprived of their liberty without anyone looking at the circumstances and approving the actions. Assessing whether a 'Deprivation of Liberty' has taken place is therefore an essential right as **no one should ever be restricted to an extent greater than is necessary and proportionate to the risks involved.**

The Supreme Court looked at the question of deprivation of liberty in 2014. They summed it up in what they called an 'acid test' for those lacking capacity to consent to, or refuse their care arrangements:

- Is the person free to leave?
- Is the person subject to complete or continuous supervision **and** control?

They said it didn't matter *why* these things were happening and *whether* they were really positive for the person, the facts were simply the facts and it should mean the same thing for all people whether they have a disability or not.

If this acid test was met and the person could not consent to it because they lacked mental capacity, it would need an independent person to look at it and approve it in order to allow it to continue.

EXAMPLE

An older person with dementia may be living in a care home. They may have chosen the care home themselves before the illness progressed. They may have lots of company and enjoy many of the activities that take place in the home. Family might visit regularly and also take them out for meals and to join in family events such as birthdays and Christmas.

Quite possibly the person may sometimes have to be stopped from leaving as they become confused about where they are and think they have to pick their children up from school. They might have staff support and supervision at all times to make sure they are safe and that their care needs are met - this might mean the acid test is met.

The law says if the acid test is met someone needs to check out all the arrangements to make sure that everything that is happening is in the person's best interests and can't be done in a less restrictive way.

What does this mean in practice?

Just because the term "deprivation of liberty" is used it doesn't mean that someone is doing something wrong. It means that the situation needs someone independent to look at it to

ensure the person's rights are being protected and to confirm that things should continue as they are.

Having someone independent to look over the care arrangements means a fresh eye can see whether there are less restrictive ways of providing the care. In some cases the actions taking place may not be in the person's best interests and the independent oversight will identify this.

EXAMPLE

An older person with dementia had a fall and was admitted to hospital for surgery. This caused them to become very confused and disorientated for several days after the surgery. The hospital staff had to keep a very close eye on the person as they were trying to get out of bed when they were not yet safe to walk and they were putting themselves in danger. The hospital had to arrange for extra staff to stay with the person and supervise them all day – this might mean the acid test is met.

Hospital staff started to wonder if the person was safe to go back home.

The law says if the acid test is met someone needs to check out all the arrangements to make sure that everything that is happening is in the person's best interests and can't be done in a less restrictive way.

When the independent assessor comes to visit they find out that the person has a lot of support from a network of friends at home and that with this support they manage very well at home. They are able to advise the hospital of this to help with the decision about discharge

How does it affect my family member or my friend?

If the DoLS are being used to authorise a deprivation of liberty, this means that your friend or relative is in a care home or hospital (sometimes the Court of Protection may be involved even if the person is in a care home or hospital, perhaps because they have disagreed with the decision).

If the person is living in any other setting then you need to read the "Deprivation of Liberty Orders" guide.

The care home or hospital should tell the family members that they have made an application for an authorisation. This is called a Standard Authorisation.

All requests are sent to the Council where the person normally lives (this test is called "ordinary residence") and the Council will process the request.

The authorisation process then involves two assessors visiting and interviewing the person who is being deprived of liberty. One is a doctor, and they visit to make sure that the person has a diagnosis which allows the DoLS to be used (this means that they have what is described as a mental disorder) and they have checked that the use of DoLS is the correct legal route.

The second person is called a 'Best Interests Assessor' and they will visit to make certain that the person does not have mental capacity to make their own decision¹ about where they get

¹ Sometimes it will be the doctor who checks the person's mental capacity.

their care or treatment and also to check that being in the care home or hospital is in their best interests and that care and/or treatment can't be done in a less restrictive way.

There are strict time scales for these assessments but there may currently be a delay as Councils have many more cases than they can process at the moment.

Different family members and friends will also be consulted during the DoLS process.

The Best Interests Assessor must consult with those who are called an 'Interested Person'. This is the person's

- partner (spouse or civil partner)
- children or step children
- parents and step parents
- brothers and sisters, half-brothers and sisters and step brothers and sisters
- grandparents
- Court appointed Deputy
- Done of a lasting power of attorney

Once the assessment reports are completed they will be sent on to someone different in the Council (usually someone fairly senior) to be authorised. If the criteria are not met, the DoLS will not be authorised.

Different reports are then sent out depending on your relationship to the person.

- The person this is about will get copies of all the full reports
- The care home or hospital will get copies of all the full reports
- Any Independent Mental Capacity Advocate (IMCA) appointed will get copies of all the full reports
- The person who has agreed to act as the Relevant Persons Representative (RPR) will get copies of all the reports.

Anyone else who was consulted will get a copy of the final form saying whether the deprivation of liberty has been authorised or not and for how long. This is either Form 5 Granted or Form 6 Not Granted.

If it is granted, the time period can be anything up to 12 months. The whole process will start again if the authorisation period comes to an end and a further authorisation is required.

If an authorisation is not able to be granted and the person's circumstances change the Care Home or Hospital may make a further request.

Some key points to note:

- If there is a Lasting Power of Attorney or Deputy for Health and Welfare Decisions, the deprivation of liberty can only be authorised by the DoLS if they support the arrangements. However, even if the attorney or deputy agree that the arrangements are the right ones for the person, the safeguards may still need to be used.
- If the person has made an advance decision refusing specific treatment the DoLS cannot be used to deprive them of their liberty in order to deliver that treatment. These cases would have to be considered by a full hearing at the Court of Protection.

The person has some key essential rights to challenge any authorisation and full details can be found here:-

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