

## Introduction

The Deprivation of Liberty Safeguards were introduced into British law through the Mental Health Act 2007 which made this significant amendment to the Mental Capacity Act 2005 (MCA). Before the MCA was passed, it was already recognised that it did not deal with people without mental capacity who were being deprived of their liberty and that further legislation would be needed to protect their rights to the level required in European law.

The Deprivation of Liberty Safeguards (DoLS) is the legal framework within which the rights are assured of people who lack mental capacity and who require protective care to prevent them coming to harm.

DoLS prescribes the process by which a home or hospital which has to deprive a resident of their liberty in order to give them care and treatment in safety can receive authorisation to do so.

## The Agencies

The MCA explains that DoLS is carried out mainly by Managing Authorities and Supervisory Bodies.

A Managing Authority is any organisation which manages beds in a registered care home or a hospital and they are responsible for ensuring that anybody who is deprived of their liberty in one of their establishments has been authorised by the Supervisory Body. If they do not do so they will be acting illegally.

The Supervisory Body is responsible for assessing cases of potential Deprivation of Liberty and authorising those who meet the requirements. The Supervisory Body in Solihull is Solihull MBC who assess people in hospital who are funded by Solihull CCG and people in registered care who are ordinarily resident in Solihull.

## The Guidelines

These guidelines give a high level view of the processes which each party involved needs to carry out. It is anticipated that each agency will have their own more detailed guidance to meet their own operational needs and that that guidance will be consistent with the processes described here.

The Guidelines are expressed in the form of a series of flowcharts to make the process clear. Individual agencies are encouraged to expand upon these with text relating to local circumstances, e.g. contact numbers and names of persons within their organisations who have roles within the DoLS process and any further detailed information helpful to their own staff.

These guidelines are colour-coded to identify which sort of agency should carry out which function as explained in the legend on each chart.

Any activity relating to people who lack mental capacity is carried out in adherence to the Act itself and the Code of Practice for MCA and the Code of Practice for DoLS. At no time should adherence to these guidelines conflict with the advice in the codes of practice and should it do so, then The Act and The Codes of Practice should be followed.

At all times, the Principles of The Mental Capacity Act should be followed:

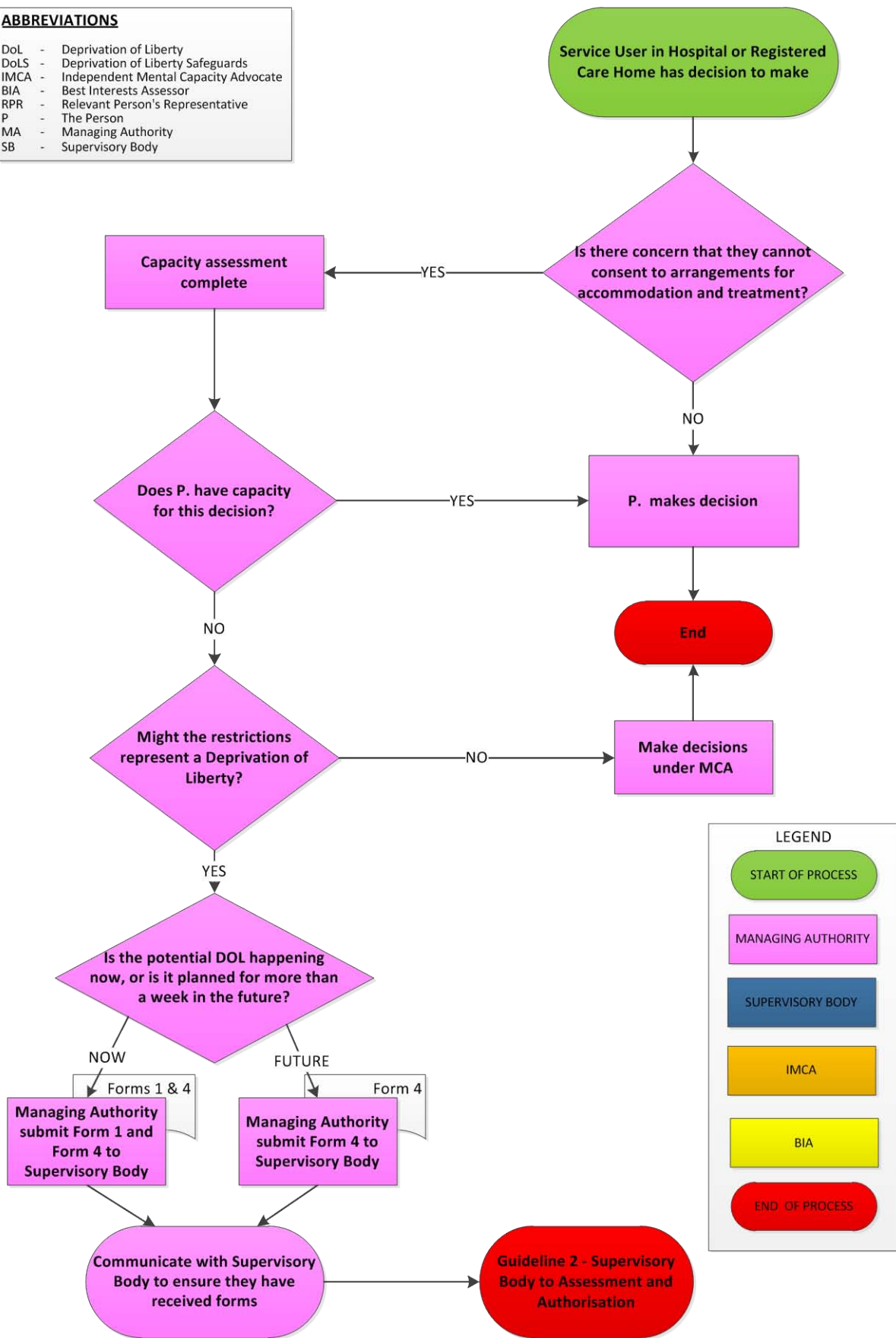
1. A person must be assumed to have capacity unless it is established that they lack capacity.
2. A person is not to be treated as unable to make a decision unless all practicable steps to help him to do so have been taken without success.
3. A person is not to be treated as unable to make a decision merely because he makes an unwise decision.
4. An act done, or decision made, under this Act for or on behalf of a person who lacks capacity must be done, or made, in his best interests.
5. Before the act is done, or the decision is made, regard must be had to whether the purpose for which it is needed can be as effectively achieved in a way that is less restrictive of the person's rights and freedom of action.

## **Review**

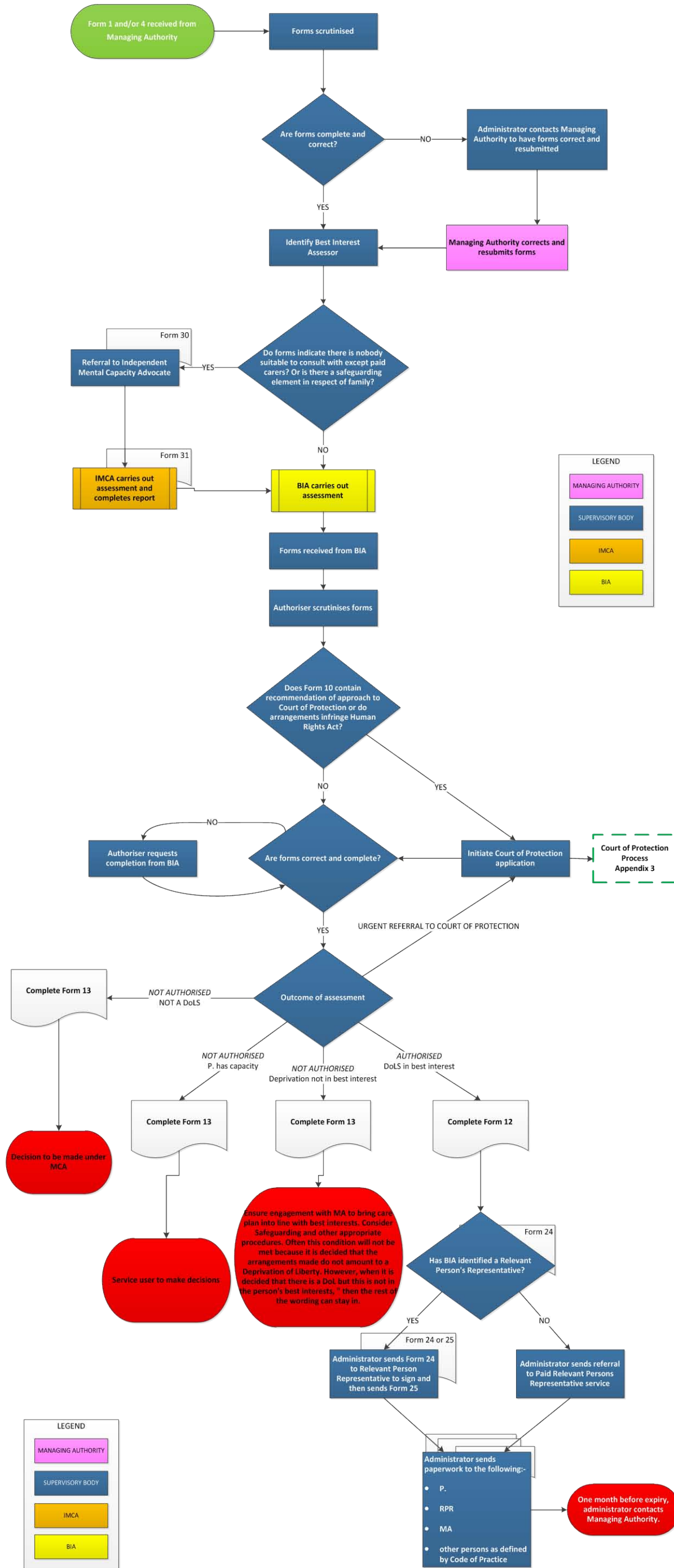
These Guidelines will be reviewed annually but any proposed additions and amendments will be considered by the MCA/DoLS Steering Group as they arise.

# Guideline 1 - Application for Authorisation

ABBREVIATIONS	
DoL	- Deprivation of Liberty
DoLS	- Deprivation of Liberty Safeguards
IMCA	- Independent Mental Capacity Advocate
BIA	- Best Interests Assessor
RPR	- Relevant Person's Representative
P	- The Person
MA	- Managing Authority
SB	- Supervisory Body



## Guideline 2 - Supervisory Body to Assessment and Authorisation



### Guideline 3 – Court of Protection

