

CASE
NUMBER

Mental Capacity Act 2005

DEPRIVATION OF LIBERTY FORM No. 10

BEST INTERESTS ASSESSMENT

PART A — WHY THIS FORM IS BEING COMPLETED

Place a cross in ONE of the boxes below ↓

A1	This form is being completed in relation to a request for a standard authorisation. (If you place a cross in this box you must also take the person being assessed through the steps necessary to appoint a representative and complete Form 24.)	<input type="checkbox"/>
A2	This form is being completed in relation to a review of an existing standard authorisation under Part 8 of Schedule A1 to the Mental Capacity Act 2005. Note: Where the supervisory body decides that the best interests requirement should be reviewed solely because details of the conditions attached to the authorisation need to be changed, and the review request does not include evidence that there is a significant change in the person's overall circumstances, there is not need for a full reassessment of best interests. This form does not need to be completed in such a case, and the supervisory body can simply vary the conditions attached to the authorisation in such ways, if any, as it considers appropriate. In making any decision whether a change is significant, regard must be had to the nature of the change and the period that the change is likely to last for.	<input type="checkbox"/>

PART B — BASIC INFORMATION

Name, address and profession of the assessor	Name	
	Address	
	Profession	
Full name of the person being assessed	Name	
Their date of birth (or estimated age if unknown)	DOB	<input type="text" value="d"/> <input type="text" value="d"/> <input type="text" value="m"/> <input type="text" value="m"/> <input type="text" value="y"/> <input type="text" value="y"/> <input type="text" value="y"/> <input type="text" value="y"/>
	Est. age	<input type="text"/> Years
Name of the hospital or care home in which the person is, or may become, deprived of their liberty	Name	
Name of the PCT or local authority that is the supervisory body	Name	

<p>The present address of the person being assessed</p> <p>(Place a cross in the relevant box and, where applicable, state the address)</p>	As stated on the request for a standard authorisation <input type="checkbox"/>	
	As stated immediately below <input type="checkbox"/>	
	Address	

<p>Address of the hospital or care home in which the person is, or may become, deprived of their liberty</p> <p>(Place a cross in the relevant box and, where applicable, state the address)</p>	As stated on the request for a standard authorisation <input type="checkbox"/>	
	As stated immediately below <input type="checkbox"/>	
	Address	

PART C — PERSONS CONSULTED AND MATTERS TAKEN INTO ACCOUNT

I have assessed whether the person meets the best interests requirement.

C1 PERSONS WHO HAVE BEEN CONSULTED

Note: before embarking on the full best interests assessment consultation process, the best interests assessor may first wish to check that there is *prima facie* evidence that a deprivation of liberty may be occurring, or is likely to occur, since, if it is apparent that there is no deprivation of liberty, the full best interests consultation process will be unnecessary.

Place a cross in the boxes below to confirm the statements in A, B or C ↓

A	I have spoken to the person to whom this assessment relates, in accordance with section 4(6) of the Mental Capacity Act 2005.	<input type="checkbox"/>
B	I have consulted the managing authority of the hospital or care home and taken their views into account.	<input type="checkbox"/>
C	In carrying out this assessment, I have also consulted the following interested persons:	

Note: before completing the rest of Part C, please read the notes at the end of the form, and in particular the definition of ‘interested persons’.

	Name	Address
1		
2		
3		
4		
5		

If more than five interested persons were consulted, please give the names and addresses of any other individuals in Part G of this form.

D I have consulted the following additional individuals who were named by the person being assessed as people to be consulted in relation to the matters now under consideration, and have taken their views into account:

	Name	Address
1		
2		

If more than two people in this category were consulted, please give the names and addresses of any other individuals in Part G of this form.

E	I have consulted the following additional individuals, who are engaged in caring for the person being assessed or are interested in their welfare, and have taken their views into account:	
	Name	Address
1		
2		

If more than two people in this category were consulted, please give the names and addresses of any other individuals in Part G of this form.

C2 MATTERS THAT I HAVE CONSIDERED AND TAKEN INTO ACCOUNT

I have considered what I believe to be all of the relevant circumstances and, in particular, the matters referred to in section 4 of the Mental Capacity Act 2005.

I have taken into account the conclusions of the mental health assessor as to how the person's mental health is likely to be affected by their being deprived of liberty.

I have taken into account any assessment of the person's needs in connection with accommodating the person in the hospital or care home.

I have taken into account any care plan that sets out how the person's needs are to be met while the person is accommodated in the hospital or care home.

In carrying out this assessment, I have taken into account any information given to me, or submissions made, by any of the following:

- (a) any relevant person's representative appointed for the person
- (b) any IMCA instructed for the person in relation to their deprivation of liberty.

Note: if this form is being used to record a Part 8 review assessment, and the best interests requirement is being reviewed solely because details of the conditions attached to the standard authorisation need to be changed in a situation in which there is a significant change in the person's overall circumstances, now proceed directly to Part F4 of this form.

PART D — WHETHER PERSON MEETS THE BEST INTERESTS REQUIREMENT

Note: if the answer to ANY of the questions D1 to D4 is No then the person is NOT eligible to be deprived of their liberty under the Mental Capacity Act 2005. Only if the answer to ALL of the questions below is Yes is the best interests requirement met.

In my opinion:

Place ONE cross in each row (no need to complete questions D2 to D4 if the answer to question D1 is No) ↓

D1	The person is, or is to be, kept in the hospital or care home for the purpose of being given care or treatment in circumstances that amount to depriving them of their liberty.	Yes <input type="checkbox"/>	No <input type="checkbox"/>
D2	This is in the person's best interests.	Yes <input type="checkbox"/>	No <input type="checkbox"/>
D3	This is necessary in order to prevent harm to the person.	Yes <input type="checkbox"/>	No <input type="checkbox"/>
D4	This is a proportionate response given the likelihood that the person will otherwise suffer harm and the seriousness of that harm.	Yes <input type="checkbox"/>	No <input type="checkbox"/>

Reasons for opinion

D5	The reasons for my opinion concerning whether or not the proposed arrangements for the person's care and/or treatment amount to depriving them of their liberty in the hospital or care home are:
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D6	If the proposed arrangements amount to depriving the person of their liberty, the reasons for my opinion that they are, or are not, in the person's best interests are:
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Note: you should consider the provisions of section 4 of the Mental Capacity Act 2005, the additional factors referred to in paragraph 4.61 of the deprivation of liberty safeguards Code of Practice and all other relevant circumstances. Remember that the purpose of the person's deprivation of liberty must be to give them care or treatment. You must consider whether any care or treatment the person needs can be provided effectively in a way that is less restrictive of their rights and freedom of action.

D7	If the proposed arrangements amount to depriving the person of their liberty, the reasons for my opinion that they are, or are not, necessary in order to prevent harm to the person are:
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Note: include particulars of the harm that will be avoided by depriving the person of their liberty.

D8	If the proposed arrangements amount to depriving the person of their liberty, the reasons for my opinion that they are, or are not, a proportionate response to the likelihood of the person otherwise suffering harm and the seriousness of that harm are:
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Note: include why the risk of harm, and the seriousness of the harm, justifies deprivation of liberty.

Please go on to:

- **Part E of the form if the best interests requirement is not met; OR**
- **Part F of the form if the best interests requirement is met.**

PART E — BEST INTERESTS REQUIREMENT IS NOT MET

Part E must be completed if you decided that the best interests requirement is not met.

Place a cross in EITHER box E1 or E2 below ↓

E1	For the reasons given above, it appears to me that the person IS, OR IS LIKELY TO BE, deprived of their liberty. In my view, the deprivation of their liberty under the Mental Capacity Act 2005 is not appropriate. Consequently, unless the deprivation of liberty is authorised under other statute, the person is, or is likely to be, subject to an unauthorised deprivation of liberty. <input type="checkbox"/>
E2	For the reasons given above, it appears to me that the person IS NOT, OR IS NOT LIKELY TO BE, deprived of their liberty. Consequently, the person is not, or is not likely to be, subject to an unauthorised deprivation of liberty. <input type="checkbox"/>

If you have put a cross in box E1, please offer any suggestions that you have that may be beneficial to the commissioners and/or providers of services in deciding on their future action. This might, for example, include a recommendation about an alternative approach to care or treatment that would avoid deprivation of liberty:

PART F — BEST INTERESTS REQUIREMENT IS MET

If you are recording a Part 8 review assessment simply record the maximum authorisation period already granted and ignore Box F2

F1 MAXIMUM AUTHORISATION PERIOD

State period in the box below. This must not exceed one year ↓

In my opinion, the maximum period it is appropriate for the person to be deprived of liberty under this standard authorisation is:

F2 DATE WHEN THE STANDARD AUTHORISATION SHOULD COME INTO FORCE

I recommend that the standard authorisation should come into force:

Place a cross in box A or enter the date in row B ↓

A	As soon as possible	<input type="checkbox"/>
B	On (date):	<input type="text" value="d"/> <input type="text" value="d"/> <input type="text" value="m"/> <input type="text" value="m"/> <input type="text" value="y"/> <input type="text" value="y"/> <input type="text" value="y"/> <input type="text" value="y"/>

F3 RECOMMENDATIONS AS TO CONDITIONS

Complete F3 if you are completing this form in connection with a request for a standard authorisation.

Complete F4 INSTEAD if you are completing this form to record a Part 8 review assessment.

Do NOT complete both F3 and F4.

See the notes at the end of this form for guidance on imposing conditions.

Place a cross in box A or box B ↓

A	I have no recommendations to make as to the conditions to which any standard authorisation should or should not be subject (proceed to Part G of this form).	<input type="checkbox"/>
B	I recommend that the conditions specified immediately below should be attached to any standard authorisation that is given.	<input type="checkbox"/>

Any standard authorisation given should be subject to the following conditions:

(If more than six conditions are recommended, please add any additional conditions in Part G.)

1	
2	
3	
4	
5	
6	

Should any recommended conditions not be imposed:

If you have made recommendations about conditions, place a cross in one of the boxes below ↓

A	I would like to be consulted again, since this may affect some of the other conclusions that I have reached in my assessment.	<input type="checkbox"/>
B	I do not need to be consulted again, since I do not think that the other conclusions reached in this assessment will be affected.	<input type="checkbox"/>

F4 RECOMMENDATIONS AS TO VARYING ANY CONDITIONS

Only complete F4 if you are using this form to record a Part 8 review assessment. In all other cases, do not complete F4.

Place a cross in EITHER box A OR box B ↓

A	I am of the opinion that the existing conditions to which the standard authorisation is subject are appropriate and should not be varied.	<input type="checkbox"/>
B	I recommend that any existing conditions to which the standard authorisation is subject should be varied in the way shown immediately below.	<input type="checkbox"/>

The conditions to which the standard authorisation is subject should be varied so that the person is now subject to the following conditions and to no others:

(If there are more than six conditions, please add any additional conditions in Part G of this form.)

1	
2	
3	
4	
5	

PART G — ANY OTHER RELEVANT INFORMATION

Please use the space below to record any other relevant information, including any additional conditions that should or should not be imposed and any other interested persons consulted by you.

PART H — THE AGE ASSESSMENT

Place a cross in ONE of the four boxes below ↓

H1	The person's date of birth is given on the first page of this form and this form also constitutes the age assessment that is required.	<input type="checkbox"/>
H2	I have not been able to ascertain the person's exact date of birth. However, I am satisfied that they are aged 18 or over, and this form also constitutes the age assessment that is required.	<input type="checkbox"/>
H3	It is not clear whether or not the person is aged 18 or over. In my opinion, a more detailed age assessment is required and Form 5 should be completed.	<input type="checkbox"/>
H4	In my opinion, an age assessment is not required. The current request is for a replacement standard authorisation and there is no reason to believe that the age assessment previously done is not accurate.	<input type="checkbox"/>

Signed	
Dated	

WHAT TO DO NOW

It is essential that you give a copy of this assessment to the supervisory body as soon as you have completed it. This is because the supervisory body may not give a standard authorisation unless and until it has written copies of all the assessments.

If the person does not meet the best interests qualifying requirement, a standard authorisation may not be given and all other on-going assessments should stop. You should immediately notify the supervisory body, and then provide them with a copy of this assessment as soon as practicable. You must keep a written record of the assessment.

Unauthorised deprivation of liberty

See below concerning the steps that must now be taken.

NOTES

Providing the eligibility assessor with relevant information

The eligibility assessor, if they are not also the best interests assessor, must ask the best interests assessor to provide them with any relevant eligibility information that the best interests assessor may have, and the best interests assessor must comply with the request. Relevant information might, for example, include:

- (a) whether the person is subject to guardianship under the Mental Health Act 1983¹ or meets the statutory criteria for being detained under section 2 or 3 of that Act; and, if so
- (b) whether they object to being accommodated in hospital in order to be given the treatment that it is proposed to give them there for their mental disorder; and, if they do
- (c) whether any donee of a lasting power of attorney or deputy appointed by the Court of Protection has consented to each matter to which they themselves object.

Definition of 'interested persons'

Any of the following is an interested person:

- (a) the relevant person's spouse or civil partner
- (b) where the relevant person and another person of the opposite sex are not married to each other but are living together as husband and wife: the other person
- (c) where the relevant person and another person of the same sex are not civil partners of each other but are living together as if they were civil partners: the other person
- (d) the relevant person's children and step-children
- (e) the relevant person's parents and step-parents
- (f) the relevant person's brothers and sisters, half-brothers and half-sisters, and stepbrothers and stepsisters
- (g) the relevant person's grandparents

¹ References in this form to provisions of the Mental Health Act 1983 include provisions of other enactments that have the same effect

- (h) a deputy appointed for the relevant person by the court
- (i) a donee of a lasting power of attorney granted by the relevant person.

One person is another's partner if the two of them (whether of different sexes or the same sex) live as partners in an enduring family relationship.

Recommending that conditions are or are not imposed

According to the law, the best interests assessor may recommend that conditions should be attached to a standard authorisation, but should not specify conditions that do not directly relate to the issue of deprivation of liberty. Conditions could, for example, deal with contact issues, issues relevant to the person's culture or other major issues related to the deprivation of liberty, without which deprivation of liberty would cease to be in the person's best interests. Conditions may also be recommended to work towards avoiding deprivation of liberty in future.

Unauthorised deprivation of liberty

The supervisory body and managing authority must address the situation urgently where there is an unauthorised deprivation of liberty. The possibility of legal proceedings may arise.

Paragraph 5.24 of the deprivation of liberty safeguards Code of Practice states as follows:

'Where the best interests assessor comes to the conclusion that the best interests requirement is not met, but it appears to the assessor that the person being assessed is already being deprived of their liberty, the assessor must inform the supervisory body and explain in their report why they have reached that conclusion. The supervisory body must then inform the managing authority to review the relevant person's care plan immediately so that unauthorised deprivation of liberty does not continue. Any necessary changes must be made urgently to stop what would be an unlawful deprivation of liberty. The steps taken to stop the deprivation of liberty should be recorded in the care plan. Where possible, family, friends and carers should be involved in deciding how to prevent the unauthorised deprivation of liberty from continuing. If the supervisory body has any doubts about whether the matter is being satisfactorily resolved within an appropriately urgent timescale it should alert the inspection body.'