

SELECTION OF A REPRESENTATIVE

(To be completed by best interests assessor)

The process has two stages:

- (1) the selection of a representative by a best interests assessor (Form 24)
- (2) the representative's appointment by the supervisory body (Form 25).

The process of selecting a representative must begin as soon as a best interests assessor is appointed following a request for a standard authorisation.

Regulations state that an individual can only be selected and appointed if they are eligible to be the person's representative. An individual is eligible if they are:

- (a) aged 18 or over
- (b) able to keep in contact with the relevant person
- (c) willing to be the relevant person's representative
- (d) not financially interested (see notes at end of form) in the relevant person's managing authority
- (e) not a relative (see notes at end of form) of a person who is financially interested in the managing authority
- (f) not employed by, or providing services to, the relevant person's managing authority (where the relevant person's managing authority is a care home)
- (g) not employed to work in the relevant person's managing authority in a role that is, or could be, related to the relevant person's case (where the relevant person's managing authority is a hospital); and
- (h) not employed to work in the supervisory body that is appointing the representative in a role that is, or could be, related to the relevant person's case.

Any person selected must inform the supervisory body in writing that they are willing to accept the appointment. Part H of this form allows for a potential representative to indicate their willingness to be selected as the representative should they be offered the appointment. Completion of this part of the form will remove the need for the supervisory body to check separately that the person concerned is willing to act as the representative.

A representative's appointment expires when the standard authorisation comes to an end. Therefore, the selection and appointment process must be done afresh if a further standard authorisation is required.

PART A — WHY THIS FORM IS BEING COMPLETED

Place a cross in box A1 or A2 ↓

A1	This form is being completed in relation to a new standard authorisation (which includes one that is to come into force on the expiry of a previous standard authorisation).	<input type="checkbox"/>
A2	This form is being completed because a representative's appointment has been terminated before it was due to expire and it is necessary to appoint a replacement.	<input type="checkbox"/>

PART B — BASIC INFORMATION

Name and address of the best interests assessor	Name	
	Address	
Full name of the person being assessed	Name	
Their date of birth (or estimated age if unknown)	DOB	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>
	Est. age	
Name of the relevant hospital or care home	Name	
Name of the supervisory body	Name	
Address of the relevant person (Place a cross in the relevant box and, where applicable, state the address)	As stated on the request for a standard authorisation	<input type="checkbox"/>
	As stated immediately below	<input type="checkbox"/>
	Address	
Address of the relevant hospital or care home (Place a cross in the relevant box and, where applicable, state the address)	As stated on the request for a standard authorisation	<input type="checkbox"/>
	As stated immediately below	<input type="checkbox"/>
	Address	

PART C — PERSONS WHOSE ELIGIBILITY COULD NOT BE CONFIRMED

Note: this part of the form should be used to record the details of any individuals who were selected by someone to be the person’s representative but who were not recommended by the assessor because their eligibility could not be confirmed.

I was unable to confirm the eligibility of the following individual(s) selected by the person themselves, or by a donee of a lasting power of attorney or deputy appointed by the Court of Protection:

	Name of the individual selected	Who selected them (e.g. person, donee)	Reason why their eligibility could not be confirmed (e.g. not willing to act)
C1			
C2			
C3			
C4			
C5			

PART D — CAPACITY OF THE PERSON TO SELECT THEIR OWN REPRESENTATIVE

I have determined whether the person has capacity to select a representative. I have determined that:

Place a cross in one box only (D1, D2, D3 or D4) ↓

D1	<p>The person has capacity to select a representative. They have selected the family member, friend or carer named in Part G of this form. This individual is eligible to be appointed. I therefore recommend their appointment as the person's representative.</p> <p>If you placed a cross in Box D1, please now:</p> <ul style="list-style-type: none"> • enter the representative's details in Part G of this form • invite the representative to sign Part H of this form • enter, in Part C of this form, the details of any individuals selected by the person who you did not recommend because you could not confirm their eligibility • sign and date the form (no other part of this form needs to be completed). 	<input type="checkbox"/>
D2	<p>The person has capacity to select a representative. Although they selected one or more family members, friends or carers to be their representative, I was unable to confirm the eligibility of any of the individuals selected.</p> <p>I advised the person of this and of my reasons, and invited them to make a further selection. They did not make a further selection.</p> <p>If you placed a cross in box D2, please now:</p> <ul style="list-style-type: none"> • enter, in Part C of this form, the details of any individuals selected by the person who you did not recommend because you could not confirm their eligibility; and then • proceed to Part F of this form (do not complete Part E). 	<input type="checkbox"/>
D3	<p>The person has capacity to select a representative but does not wish to select a family member, friend or carer to be their representative.</p> <p>If you placed a cross in box D3, please proceed to Part F of this form (do not complete Part E).</p>	<input type="checkbox"/>

D4	<p>The person lacks capacity to select a representative. <input type="checkbox"/></p> <p>If you placed a cross in box D4, please now:</p> <ul style="list-style-type: none"> • proceed to Part E of the form if a donee or deputy has been appointed for the person; or • proceed to Part F of the form if they do not have a donee or deputy.
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PART E — PERSON LACKING CAPACITY HAS A DONEE OR DEPUTY

Place a cross in one box only (E1, E2 or E3) ↓

E1	<p>The person has a donee or deputy whose authority permits them to select a family member, friend or carer of the person to be their representative. <input type="checkbox"/></p> <p>The donee or deputy has selected the family member, friend or carer named in Part G of this form. This individual is eligible to be appointed. I therefore recommend their appointment as the person’s representative.</p> <p>If you placed a cross in box E1, please now:</p> <ul style="list-style-type: none"> • enter the representative’s details in Part G of this form • invite the representative to sign Part H of this form • enter, in Part C of this form, the details of any individual selected by the donee or deputy who you did not recommend because you could not confirm their eligibility • sign and date the form (no other part of this form needs to be completed).
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E2	<p>The person has a donee or deputy whose authority permits them to select a family member, friend or carer of the person to be their representative. <input type="checkbox"/></p> <p>Although that donee or deputy selected one or more family members, friends or carers to be the person’s representative, I was unable to confirm the eligibility of any of the individuals selected.</p> <p>I advised the donee or deputy of this and of my reasons, and invited them to make a further selection. They did not make a further selection.</p> <p>If you placed a cross in box E2, please now:</p> <ul style="list-style-type: none"> • enter, in Part C of this form, the details of any individuals selected by the donee or deputy who you did not recommend because you could not confirm their eligibility • proceed to Part F of this form.
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E3	<p>The person has a donee or deputy whose authority permits them to select a family member, friend or carer to be the person’s representative. <input type="checkbox"/></p> <p>However, the donee or deputy does not wish to select a family member, friend or carer to be the person’s representative.</p> <p>If you placed a cross in box E3, please now proceed to Part F of the form.</p>
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PART F — SELECTION OF A REPRESENTATIVE BY BEST INTERESTS ASSESSOR

Place a cross in one box only (F1 or F2) ↓

F1	<p>I have selected a family member, friend or carer of the person who is eligible to be a representative. <input type="checkbox"/></p> <p>The person does not object to the individual selected by me and nor does any donee or deputy appointed for them.</p> <p>I therefore recommend the person selected by me for appointment as a representative to the supervisory body.</p> <p>If you placed a cross in box F1, please now:</p> <ul style="list-style-type: none"> • enter the representative’s details in Part G of this form • invite the representative to sign Part H of this form • enter, in Part C of this form, the details of any individual you did not recommend because you could not confirm their eligibility • sign and date the form.
F2	<p>I have not been able to select an eligible person to be a representative. <input type="checkbox"/></p> <p>If you placed a cross in box F2, please now:</p> <ul style="list-style-type: none"> • enter, in Part C of this form, the details of any individual you did not recommend because you could not confirm their eligibility • sign and date the form.

PART G — DETAILS OF THE INDIVIDUAL SELECTED TO BE THE REPRESENTATIVE

The following individual has been selected to be the person’s representative:

G1	Full name of the person selected	Name	
G2	Their address	Address	
G3	Their contact details	Telephone	
		Email	
G4	Their relationship with the relevant person		

PART H — CONSENT OF THE PERSON SELECTED TO BEING APPOINTED

Note: this is an optional Part of the form. Its completion will save the supervisory body having to write separately to the person to obtain their consent before offering them the appointment.

I am willing to be appointed as this person’s representative under the deprivation of liberty safeguards provisions of the Mental Capacity Act 2005, and I am aware that I am expected to:

- (a) maintain contact with the person
- (b) represent the person in matters relating to, or connected with, their deprivation of liberty under the standard authorisation
- (c) support the person in matters relating to, or connected with, the standard authorisation.

Signed (person named in Part G above)	
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Dated	
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As soon as it is completed and signed, this form should be passed to the supervisory body, so that a representative can be appointed.

Signed (best interests assessor)	
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Dated	
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NOTES

The arrangements for the selection and appointment of representatives are contained in the Mental Capacity (Deprivation of Liberty: Appointment of Relevant Person’s Representative) Regulations 2008 accessible via: http://www.dh.gov.uk/en/SocialCare/Deliveringadultsocialcare/MentalCapacity/MentalCapacityActDeprivationofLibertySafeguards/DH_084948

Definition of a relative

Regulation 3(2) defines a ‘relative’ as

- (a) a spouse, ex-spouse, civil partner or ex-civil partner
- (b) a person living with the relevant person as if they were a spouse or civil partner
- (c) a parent or child
- (d) a brother or sister
- (e) a child of a person falling within sub-paragraphs (a), (b) or (d)
- (f) a grandparent or grandchild
- (g) a grandparent-in-law or a grandchild-in-law
- (h) an uncle or aunt
- (i) a brother-in-law or sister-in-law

- (j) a son-in-law or daughter-in-law
- (k) a first cousin; or
- (l) a half-brother or half-sister.

Definition of 'financial interest' in a managing authority

Regulation 3(3)(c) states that a person has a financial interest in a managing authority where:

- (i) that person is a partner, director, other office-holder or major shareholder of the managing authority that has made the application for a standard authorisation, and
- (ii) the managing authority is a care home or independent hospital.

Regulation (3)(3)(d) states that a major shareholder means:

- (i) any person holding one tenth or more of the issued shares in the managing authority, where the managing authority is a company limited by shares, and
- (ii) in all other cases, any of the owners of the managing authority.

Donees and deputies

The appointment of a representative is in addition to any appointment of a donee or deputy. The functions of a representative do not affect the authority of any donee, the powers of any deputy, or any powers of the court.

Section 39A IMCAs

If the person has a section 39A IMCA, the effect of the appointment of a representative for the person is generally that the duties imposed on, and the powers exercisable by, the IMCA no longer apply. The IMCA may, however, still make an application to the Court of Protection concerning the standard authorisation, but must take account of the views of the representative in doing so.