

CASE  
NUMBER

Mental Capacity Act 2005

DEPRIVATION OF LIBERTY FORM No. 25

## APPOINTMENT OF A REPRESENTATIVE (To be completed by the supervisory body)

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 supervisory body must appoint a representative as soon as practicable after a standard authorisation is given.

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.

The supervisory body must also appoint a representative if a vacancy arises while a standard authorisation is in force. It must do so as soon as is practicable after it is aware that a vacancy has arisen or will arise.

### PART A — WHY THIS FORM IS BEING COMPLETED

Place a cross in box A1 or A2 ↓

<b>A1</b>	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"/>
<b>A2</b>	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

Full name of the person who is the subject of the standard authorisation	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	
Name of the relevant hospital or care home	Name	
Name of the supervisory body	Name	
Person to contact at the supervisory body	Name	
	Telephone	
	Email	

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

**PART C — SELECTION OF A REPRESENTATIVE BY THE SUPERVISORY BODY**

Place a cross in one box only (C1 or C2) ↓

<b>C1</b>	Details of an individual selected to be this person’s representative are included in Part G of Form 24. There is therefore no need for the supervisory body to select a representative for this person. <input type="checkbox"/>
<b>C2</b>	The best interests assessor has indicated in Part F2 of Form 24 that they have not been able to select an eligible person to be this person’s representative. It has therefore been necessary for the supervisory body to select a representative for this person. Details of the individual selected are given in Part D of this form. <input type="checkbox"/>

**Note:** where the best interests assessor has been unable to select a representative, the supervisory body may select an individual to be the person’s representative who:

- (a) would be performing the role in a professional capacity
- (b) has satisfactory skills and experience to perform the role
- (c) is not a family member, friend or carer of the relevant person
- (d) is not employed by, or providing services to, the relevant person’s managing authority, where the relevant person’s managing authority is a care home
- (e) is 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
- (f) is not employed by the supervisory body.

The supervisory body must also be satisfied that there is in respect of the person:

- (a) an enhanced criminal record certificate issued pursuant to section 113B of the Police Act 1997; or
- (b) if the purpose for which the certificate is required is not one prescribed under subsection (2) of that section, a criminal record certificate issued pursuant to section 113A of that Act.

The person selected must inform the supervisory body in writing that they are willing to accept the appointment. Unless they have already done this, by signing Part H of Form 24 where convenient, they can do so by completing Part F of this form.

The supervisory body may make payments to a representative selected and appointed by it under this procedure.

**PART D — THE PERSON APPOINTED AND WHEN THE APPOINTMENT EXPIRES**

The following individual is hereby appointed to be the person's representative  (This is the individual named in Part G of Form 24 or, if no one is named there, the person selected by the supervisory body)	Full name	
	Address	
	Telephone	
	Email	

This appointment lasts for the same period as the standard authorisation to which it relates, and therefore it will expire when the existing standard authorisation expires.

**PART E — ELIGIBILITY OF THE PERSON APPOINTED**

The above person is eligible to be appointed as a representative because 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.

Where selected by the supervisory body because the best interests assessor has been unable to select a representative, they also meet the additional requirements set out in the note in Part C above.

**PART F — CONSENT OF THE PERSON SELECTED TO BEING APPOINTED**

**Note:** there is no need to complete this part of the form if consent has already been given by the signing of Part H of Form 24.

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 of the functions, as summarised in Part G of this form, that I am expected to perform.

Signed	
Dated	

**PART G — FORMAL STATEMENT**

It appears to me that the representative will:

- (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.

**PART H — GIVING NOTICE OF THE APPOINTMENT**

If you have received a copy of this notice it is because the supervisory body is required to send copies of the representative’s appointment to:

- (a) the person appointed
- (b) the person who is the subject of the deprivation of liberty authorisation
- (c) the managing authority
- (d) any donee of a lasting power of attorney or deputy appointed by the Court of Protection for the person in (b)
- (e) any independent mental capacity advocate instructed under the Mental Capacity Act 2005 and involved in the relevant person’s case
- (f) every interested person named by the best interests assessor in their report as somebody they have consulted in carrying out their assessment.

Signed  (on behalf of the supervisory body)	Signature	
	Print name	
	Position	
Dated	Date	

## 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](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.