



# Applications to the Court of Protection in relation to a Deprivation of Liberty

## Applications under the Re X Streamlined Procedure to Authorise a Deprivation of Liberty in the Community (using the COPDOL11 form)

We offer a variety of services to suit your requirements:

At a cost of £400 per check, to cover:

1. Review of Application Form to Court of Protection for Deprivation of Liberty under the Streamlined Procedure (COP DOL 11 Form) and draft order
2. Review of COP 3 Assessment of Capacity Form
3. Email advice setting out:
  - a. Whether any triggers are identified by the application forms that suggest this application comes outside the provisions of the streamlined procedure and will result in a hearing
  - b. What additional evidence the organisation will need to obtain and include in the application forms to comply with the court's requirements for streamlined applications.

At a cost of £2,500 per check, to cover:

1. Review draft COP DOL11 Form and accompanying documents
2. Advising on the application form and documents and providing advice on:
  - a. The application form – what information is required/not required
  - b. Which of the documents attached should be submitted in support of the application
  - c. An email setting out what further information is required to support the application.

At a cost of £5,000 to cover all assistance with:

1. The application form
2. Documents to accompany the form
3. Evidence required regarding capacity
4. Drafting your evidence.

## Applications which challenge a Patient's Deprivation of Liberty (under s21A Mental Capacity Act)

Where a CCG is commissioning services for a patient which result in a deprivation of liberty, and the patient makes an application under s21A Mental Capacity Act to challenge that deprivation of liberty (i.e. because they want to live somewhere else or don't want to be under certain restrictions), the CCG will be joined as a respondent to Court proceedings which will arise as a result of that application. CCG's should also bear in mind that if the patient is in receipt of Continuing Healthcare, then the Standard Authorisation is the CCG's responsibility.

We are able to guide you through the Court process, correspond with the other parties and the Court on your behalf and ensure compliance with the Court timetable. This is likely to include collating relevant evidence, preparing witness statements, identifying and instructing Counsel, attending Round Table Meetings and preparing for and attending Court Hearings.

Costs vary depending on the nature of the case and we do of course only charge for the work that we do. Please get in touch to discuss how we can help.



## Liberty Protection Safeguards (LPS) replacing Deprivation of Liberty Safeguards (DoLS)

Under the Mental Capacity (Amendment) Act 2019 the current DoLS' regime is being replaced with the LPS. The Department of Health and Social Care's intention was for the LPS to come into force on 1 October 2020. However, this has been significantly delayed.

Once the Code of Practice has come out for publication we will be offering training sessions to clients to help them prepare for the implementation of the LPS. Please get in touch to discuss this further.

### Training Sessions

We offer training sessions on numerous topics:

- COPDOL11
- S21A Challenges
- LPS
- CHC and DST Decision Making

### Contact

*"Capsticks LLP specialises in advising NHS providers and commissioners, as well as public, private and charitable sector clients, on all issues involving incapacitated and vulnerable adults and children. The team provides a 24/7 emergency advice line to assist health sector clients with complex medical ethical and legal issues. Another of its significant strengths is in the interaction between the Mental Health Act, the Mental Capacity Act and the Deprivation of Liberty Safeguards. The team is frequently involved in disputes regarding lasting powers of attorney, advance decisions and best interests cases. Francis Lyons heads the department."*

**The Legal 500, 2021**

*"Capsticks' staff has a wealth of knowledge of all areas and can direct me to the most suitable and qualified expert for the advice I need. The guidance is clear and sensible which makes life much easier."*

**Capsticks client, Legal 500, 2021**

*"Capsticks has provided us with invaluable step-by-step advice in numerous Court of Protection cases. The lawyers provide clear instructions and explanations of the process to clinicians that would otherwise be completely alien to them, thereby ensuring the relevant and appropriate clinical knowledge is available to the court."*

**Capsticks client, Legal 500, 2021**



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