EIA and Due Regard Assessment Tool

To be submitted with any policy, restructure or service change, when sent to the appropriate committee for consideration and approval. Highlight positive / negative impact, provide evidence & location in the policy all showing due regard.

	Exec Sponsor **Chief Nursing Officer**	**Senior responsible office** **Rebecca Agnew**	**Name and description of Policy, Restructure, Service Change** This is a review of the Trust's policy on the Deprivation of Liberty Safeguards. The Deprivation of Liberty Safeguards (DoLS) were introduced into the Mental Capacity Act 2005 (MCA) via the Mental Health Act 2007. The Deprivation of Liberty Safeguards provide legal protection for those vulnerable people who are, or may become, deprived of their liberty within the meaning of Article 5 of the European Convention of Human Rights in a hospital or care home, whether placed under public or private arrangements. The DoLS provide for a care plan which is so restrictive that it amounts to a deprivation of liberty to be made lawful through 'standard' or 'urgent' authorisation processes. These processes are designed to prevent arbitrary decisions to deprive a person of their liberty.
	Date analysis began: **4 May 2022**	**Date submitted for review:** **Date to be reviewed (ie 1/2/3 years)**	
	What is the focus of the EIA Workforce, Organisational strategy, Clinical Services, Clinical Policies	MH Law policy	

	Mandatory sections	**Indicate + / -**	**Evidence** in policy **–** this needs to include a narrative and the location in the document
1	This row is guidance How does the document/guidance affect one protected characteristic less or more favourably than another on the basis of each of the below	**a** Positive **b** neg **c** neutral	Enter a narrative below for each protected characteristic, & the page number where you have evidenced due regard in the policy restructure or service change. What is the impact?

a	*Age*	*C*	151 DoLS applications were made in SPFT between 1 April 2021 and 31 March 2022. Of that number 13 were for persons under the age of 60, 16 were between the ages of 61 and 70 years, 114 were between the ages of 71 and 90, with 8 applications for those over the age of 91 years. Older people are the main group to be subject to DoLS due to age related conditions therefore are disproportionately affected. Care plans are completed by the specialist older people's mental health inpatient team to support the patient's particular needs taking into account age and frailty needs. The person's capacity to consent to the care and treatment arrangements is assessed in line with the MCA/Code of Practice principles and NICE Guidance on Decision making and consent. The outcome of the capacity assessment determines whether they have the capacity to consent to the arrangements, and if not and those arrangements are considered to be a deprivation of their liberty, then a DoLS authorisation must be put in place. Where the person is supported by family/carers their views are also sought. Where there is no family/carer support the person is referred for advocacy support. Completion of MCA/.DoLS training is mandatory for all persons working in a clinical setting. This is supported by the provision of MCA and DoLS refresher training for staff.
b	*Disability*	*A*	The Deprivation of Liberty Safeguards is a statutory framework designed to protect the Human Rights of those who lack capacity to make a decision about care & treatment arrangements that are considered to be very restrictive. Where the person has a learning disability or sensory loss and is considered to require a DoLS authorisation, the information and support provided to them will be adjusted to meet their needs. Easy Read information for DoLS is provided. The information provided to the Relevant Person's Representative is also provided in easy read format by the Local Authority where required, along with availability of an Advocate where required. Completion of MCA/DoLS training is mandatory for all persons working in a clinical setting, with ongoing refresher training on MCA and DoLS that includes best interest decision making and upholding the rights of vulnerable patients. Auditing of Capacity assessments completed in the Carenotes record has shown some excellent practice in regard to patient focussed discussions, with supports being given to maximise patient engagement. Examples include the use of picture boards for those with a learning disability, ensuring good eye contact for those with communication needs and involvement of family/carers

			in the conversation.
c	*Gender/Sex*	*C*	56% of applications made in SPFT for DoLS assessment during the report period above were for those that identified as male and 44 % for female. The degree of restriction identified in a person's care plan should be proportionate and the least restrictive option available to provide them with the necessary care and treatment. Where that care plan is restrictive to the point of meeting the threshold to be depriving the person of their liberty, then a DoLS authorisation will be sought. The person's gender/sex is not a factor when considering the need for a DoLS authorisation. The person's care plan is agreed and provided in line with agreed clinical practice / Care Programme Approach policy ensuring a patient focussed approach that is compliant with MCA principles.
d	*Gender identity/Gender Reassignment*	*C*	There is no data available on gender identity and use of DoLS authorisations. The degree of restriction identified in a person's care plan should be proportionate and the least restrictive option available to provide them with the necessary care and treatment. Where that care plan is restrictive to the point of meeting the threshold to be depriving the person of their liberty, then a DoLS authorisation will be sought. The person's gender identity is not a factor when considering whether the necessary and proportionate care plan restrictions require a DoLS authorisation..
e	*Marriage and civil partnership*	*C*	Full data is not available as 53% of records do not contain the marriage or civil partnership status. 23% were married or in a civil partnership, 14% were single or divorced and 9% were widowed. The degree of restriction identified in a person's care plan should be proportionate and the least restrictive option available to provide them with the necessary care and treatment. Where that care plan is restrictive to the point of meeting the threshold to be depriving the person of their liberty, then a DoLS authorisation will be sought. The person's gender/sex is not a factor when considering whether the necessary and proportionate care plan restrictions require a DoLS authorisation. Staff will receive training on Dignity and Respect as part of their wider clinical training needs.
f	*Pregnancy and maternity*	*C*	There is no data available on pregnancy/maternity and use of DoLS. Authorisations. The degree of restriction identified in a person's care plan should be proportionate and the least restrictive option available to provide them with the necessary care and treatment. Where that care plan is restrictive to the point of meeting the threshold to be depriving the person of their liberty, then a DoLS authorisation will be sought. The person's pregnancy/maternity status is not a factor when considering whether the necessary and proportionate

			care plan restrictions require a DoLS authorisation. Where a patient who is subject to a DoLS authorisation is pregnant, then their clinical support needs will be provided by the clinical inpatient team in line with best practice guidance / Care Programme Approach policy.
g	*Race*	*C*	58% of DoLS applications in SPFT during the reporting period outlined above were for those identifying as White-British. A further 34% of records did not include ethnicity information. The degree of restriction identified in a person's care plan should be proportionate and the least restrictive option available to provide them with the necessary care and treatment. Where that care plan is restrictive to the point of meeting the threshold to be depriving the person of their liberty, then a DoLS authorisation will be sought. The person's race is not a factor when considering whether the necessary and proportionate care plan restrictions require a DoLS authorisation..
h	*Religion or belief*	*C*	The person's religious/cultural beliefs are taken into account by the clinical team when planning care and ensuring any restrictions required are necessary and proportionate, the least restrictive option and in the patient's best interests taking into account current risk assessment. The views of the person and their family/carers will be taking into account by the clinical team at all stages in the care planning/treatment. A person's ability to access religious observances/ceremonies will not be restricted by the existence of a DoLS authorisation.
i	*Sexual orientation*	*C*	Full data on this is not available as 77% of records did not record this information, with the remaining 22% identifying as heterosexual and 1% as gay/lesbian. The degree of restriction identified in a person's care plan should be proportionate and the least restrictive option available to provide them with the necessary care and treatment. Where that care plan is restrictive to the point of meeting the threshold to be depriving the person of their liberty, then a DoLS authorisation will be sought. The person's sexual orientation is not a factor when considering whether the necessary and proportionate care plan restrictions require a DoLS authorisation.. Staff training on consideration of sexual orientation is included in their wider clinical training/application of Care Programme Approach policy.
	Human Rights *(likely patient facing work)*		The Deprivation of Liberty Safeguards are a legal mechanism to ensure that where a person's care and treatment needs are very restrictive, that those care and treatment arrangements are independently reviewed and authorised. The process includes the appointment of a Relevant Person's Representative (RPR), who is usually, or a paid RPR (usually an advocate), who have the option of formally appealing against the authorisation. The person subject to the DoLS and the RPR are both advised of their right to

			do this and provided with easy read information.
2	What evidence is there that the protected characteristics are affected differently and how do you know this? (what sources are you relying on)		This is a positive impact for those who are vulnerable and lack decision-specific capacity due to a disability as it requires an independent review of the arrangements and provision of statutory support. Staff who are involved in care planning, decision making and the need for DoLS will be required to attend standard Trust EDI training as part of their wider clinical training need.
3	If you have identified potential discrimination, are there any exceptions valid, legal and/or justifiable? (mitigation)		This is a positive action for those who lack decision-specific capacity due to a disability as it requires, by law, an independent review of the care plan arrangements and provision of statutory support.
4	How is the impact of the document/guidance likely to be negative?		The statutory provision requires the DoLS authorisation process to be managed by Local Authority DoLS teams. Any delays to DoLS assessments and outcomes are outside of the scope of SPFT.
5	If so, how can the impact be mitigated		Where delays are identified SPFT takes active steps to ensure the person continues to receive support from family/carers/advocate where available, and for care plans to be regularly reviewed to ensure restrictions in place the least restriction option and in the person's best interests.
6	What alternative is there to achieving the document/guidance without the impact?		No current alternative - see below.
7	How can you reduce the impact if not, what, if any, are the reasons why the policy should continue in its current form?		Introduction of the Liberty Protection Safeguards (date currently unknown) will move responsibility for assessment and authorisation of deprivation of liberty arrangements for inpatients to SPFT.
8	How has the policy/guidance been assessed in terms of Human Rights to ensure service users, carers and staff are treated in line with the FREDA principles (fairness, respect, equality, dignity and autonomy)		The policy is based on the statutory framework of the Deprivation of Liberty Safeguards which is a provision within the Mental Capacity Act. The Deprivation of Liberty Safeguard framework is in place to uphold the Human Rights of those who are vulnerable and lack decision-specific capacity.
9	What is the evidence of impact on any communities not covered by the protected characteristics? (For example, Roma and Traveller communities, Homeless communities, Asylum Seekers and Refugee communities and Carers) If yes use the Comments column to describe what the potential impact is, what you could do to remove/reduce any adverse		The statutory framework applies to anyone who meets the criteria for a Deprivation of Liberty Safeguard assessment and authorisation, irrespective of community background. The principles of the Mental Capacity Act must always be applied when the Deprivation of Liberty Safeguards statutory framework is used.

	impact and what you could do to benefit from any positive impact.		

If you have identified a potential discriminatory impact of this policy, please include this here with suggestions as to the action required to avoid / mitigate and reduce this impact The E&D data collection on Carenotes requires improvement - this is a Trustwide piece of work that E&D team have highlighted for action as a centrally led piece of work. General comment - Information about patient specific support needs in line with Principle 2 of the MCA is included in MCA/DoLS mandatory training which currently sits at 88% completion across the Trust 21 MCA refresher sessions held in the last 12 months/56 staff in attendance. In addition to the MCA/MHA interface workshops held in the last 12 months - 6 held/ 145 in attendance. Feedback received has been positive and staff have found the sessions helpful. If you have identified a potential positive impact of this policy, please include this here with suggestions to develop this further. The Deprivation of Liberty Safeguards are a statutory framework that cannot be altered. The Trust continues to review use of the Deprivation of Liberty Safeguards to ensure it is used appropriately and patient rights are upheld.	**This form is designed to build your confidence and knowledge for EDI principles to be embedded within your department** For advice in answering the above questions, please contact – **Trust Lead for Workforce EDI** Shanila Wahid Foolheea EHRIA code from SWF

EIA written by:	Jolene Pont	Date	30 August 2022
EIA reviewed by:	Jan Begum		13th September 2022 EIA Code: 2205
EIA authorised by: (SRO)	Rebecca Agnew - see email Re_ DoLS policy - EIA.msg	Date	26 June 2022
Further comments		Date	

EIA published on intranet		Date	
Person to review EIA post implementation		Date	