

How will I know if this applies to a member of my family?

The NHS in Sheffield is reviewing all the care it arranges for people living in their own homes. This means that we will contact people or their families, who we think are affected when we arrange their care.

If the Court of Protection authorises the care we arrange or offer your family member, we will review their care, at least annually.

My family member only has occasional care during the day. Will this apply to them?

It may do. The Court of Protection will take into account all the support provided for a person and not just the care that the NHS arranges. So if your family member has someone with them all the time, is unable to make their own decisions, and would be prevented from leaving their home, then the Court may decide that they are deprived of their liberty and will also consider whether this is in their best interests.

If you need this leaflet in a different language, audio, large print or braille please contact us on sheccg.comms@nhs.net or 0114 305 1212.

www.sheffieldccg.nhs.uk

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Further Information

- The NHS Choices website, provides further information about the Court of Protection: <http://www.nhs.uk/conditions/social-care-and-support-guide/pages/mental-capacity.aspx>
- NHS Sheffield CCG - Deprivation of Liberty Safeguards www.sheffieldccg.nhs.uk/Your-Health/deprivation-of-liberty-safeguards.htm

Where can I get Independent Advice?

Sheffield Citizens Advice provides a free advice service, for people whose care has to be authorised by the Court of Protection. The service is also for their families and carers. The service is funded by the NHS but the advice is confidential. The service is only available for people whose care is paid for by NHS Sheffield. This number is 0800 035 0396.

Independent Information

Several national charities also provide information about the Court, including:

- The Alzheimers Society
0300 222 11 22
- Mencap
0808 808 1111
- MIND
020 7631 6970
- The National Autistic Society
(0)20 7833 2299
- The Parkinsons Disease Society
0808 800 0303

NHS Continuing Healthcare and the Court of Protection



Working with you to make Sheffield

H E A L T H I E R

Adults having care at home

The NHS arranges care for many people. This leaflet explains our responsibilities when we arrange or offer care to adults having care at home, who cannot decide for themselves whether they need it. This may be because they have an illness or disability which makes them unable to make some decisions for themselves. We describe their care as 'home care', 'domiciliary care' or 'supported living'. This leaflet also explains when we have to ask the Court of Protection whether they agree with our plan and who we have to consult with beforehand.

When does the NHS have to ask the Court of Protection about care?

Sometimes the care arranged for a person limits what they can do. For instance, some people are prevented from leaving their home without a carer or family member, if they would not be safe if unaccompanied. The Court of Protection may decide that this is a 'deprivation of liberty'. Part of the Court's role is to protect people from being deprived of their liberty unless it is absolutely necessary. Only then will the Court put safeguards (measures to protect someone) in place.

When the NHS arranges or offers care, we need to decide if the person receiving care would be deprived of their liberty. The NHS must ask the Court for an authorisation whenever it arranges or offers care for people living in their own homes, who lack capacity, and if the care would deprive them of their liberty.

Who decides if a person is unable to make their own decisions?

The NHS or anyone arranging care for someone must assume the person can make their own decisions unless there is reason to believe they cannot. The law sets out a test to follow if we think a person is unable to make a decision for themselves.

When someone cannot make their own decision then others have to decide what is in their 'best interests'.

Often the decision as to what is in a person's best interests will be made by family members or carers. However a doctor, nurse, or social worker might also make a decision.

You should always be consulted when a professional, the NHS or Council needs to make a decision for a close relative. In cases where someone does not have family or anyone else who can be consulted, an Independent Mental Capacity Advocate (IMCA) is appointed to support them.



Why does this only apply to people living in their own home?

In 2007, a law was introduced to help decide when a person is unable to make their own decisions. This law is called the Mental Capacity Act (2005).

This Act also applies to adults living in a care home or receiving care in hospital. However, the Council is responsible for granting the deprivation of liberty safeguards authorisations if this is in the person's 'best interests'.

If the law changed in 2007, why are you contacting people now?

In 2014 two legal cases were heard in the Supreme Court. The judgments in these cases changed how we decide whether to ask the Court of Protection to authorise the care we arrange or offer someone.

You can find more information about the Court of Protection at: <https://www.gov.uk/court-of-protection>

How long would the Court of Protection take to make a decision?

This depends on whether the person, their family and professionals agree on how the care should be provided. The Court has introduced a 'streamlined' process which we can use where people agree. However, disagreements can take a long time to resolve.