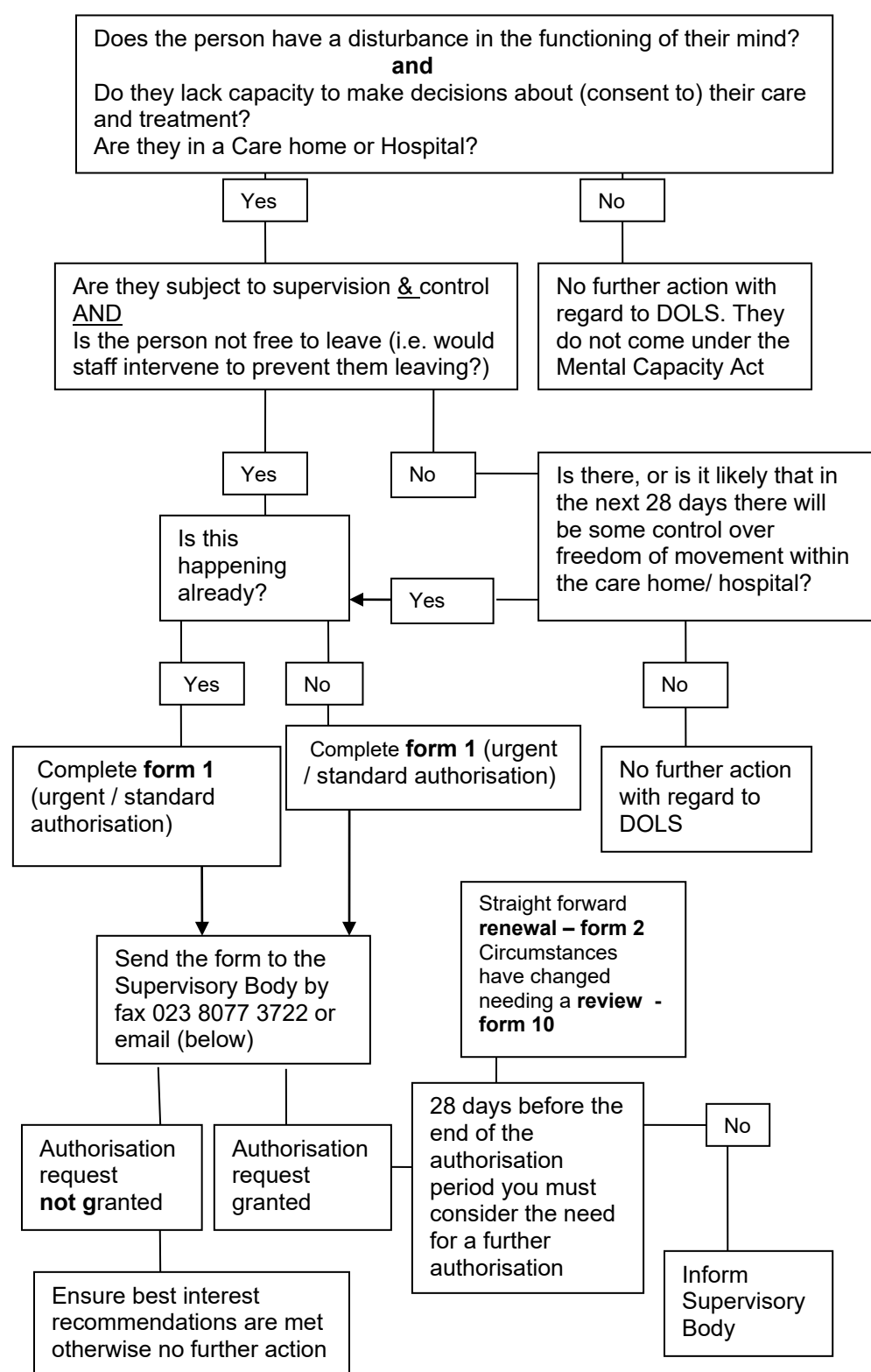


Mental Capacity Act Deprivation of Liberty Safeguards

Are you acting lawfully following the recent (Cheshire West) judgment?

Deprivation of Liberty Safeguards (DOLS) Checklist



The forms are available electronically from the DoLS Team: DOLS.Admin@southampton.gov.uk

What is Deprivation of Liberty?

- The DoLS Code of Practice lists the factors which may indicate a deprivation of liberty: these are still relevant but must now be read in the light of this decision of the Supreme Court.
- The Supreme Court has now confirmed that there are two key questions to ask:
- **Is the person subject to continuous supervision and control?** All three elements must be present – the oversight must be continuous (though does not have to be 'in line of sight'), it must amount to supervision and have a clear element of control.

AND

- **Is the person free to leave?** The person may not be asking to go or showing by their actions that they want to but the issue is about how staff would react if the person did try to leave or if relatives/friends asked to remove them.

It is now clear that if a person lacking capacity to consent to the arrangements is subject both to **continuous supervision and control and not free to leave**, they are deprived of liberty.

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