

DEPRIVATION OF LIBERTY – UNDER 16'S

Recent case law findings have highlighted questions and concerns around Deprivation of Liberty for under 16's accommodated within hospitals, residential care homes and secure accommodation. Because of the many intricacies for under 16's this is a difficult and complex area to give clear direction on at this time.

This Community Care Article - [Deprivation of Liberty and Young People - What Social Workers Need to Know](#) explains this. The law and thinking in this area is still developing.

The Law Society has provided detailed [guidance](#) on the law relating to the deprivation of liberty safeguards which is helpful. On the ADCS Website Oxon County Council have produced [guidance on use of Mental Capacity Act 2005](#) for 16 and 17 year olds which is available for comment.

However, this is set against a background when the Law Commission commits to [scrapping DoLS and is urging a less wide alternative](#). The Law Commission's [interim report](#) proposes that the problems with the Deprivation of Liberty Safeguards (DoLS) can be resolved only by wholesale replacement of the DoLS and reform of the law. The interim report follows an extensive, 4-month consultation in which they attended 83 events across England and Wales, and received 583 written responses. The interim report is intended to update stakeholders on the key issues that have emerged, a summary of provisional proposals. The final report with recommendations and a draft Bill is expected to publish in December 2016. Community Care discusses this proposal in their [article Best interests assessor role could be axed to cut costs of deprivation of liberty system](#).

Hopefully the new proposals will bring greater clarity for Children Services as to what their responsibilities should be under the new scheme.