

Select Trust

Please affix Addressograph or fill details below	
PATIENT NAME:	
DATE OF BIRTH:	
H&C NUMBER:	

Date

There is a reasonable belief that the above-named person currently lacks the capacity to make informed decisions in relation to their care and treatment pursuant to the criteria under the Mental Capacity Act (Northern Ireland) 2016 (MCA).

Care and treatment includes admissions/proposed admissions of a patient (referred to as "P") to hospital, where they are not free to leave and that they are unable to consent or object to the continuous supervision and control.

While the above-named patient would be subject to a Deprivation of Liberty (DoL) in being taken to hospital without all legal safeguards in place, this is deemed lawful under **Emergency** provisions pursuant to the MCA 2016 and MCA Code of Practice 2019. This is based on my reasonable belief that to delay this process until all safeguards are met would create an unacceptable risk of harm to the patient and/or others (as per Section 65 (2) of the MCA 2016).

As stated in paragraph 7.17 of the MCA Code of Practice (2019), the "safeguards of *formal capacity, nominated person and authorisation* can be delayed if the risk of harm to P [patient] of waiting outweighs the risk of harm to P of carrying out the detention amounting to a DoL without the safeguards".

I have applied all possible safeguards, including satisfaction that the "Prevention of Serious Harm condition" has been met in this case in that there is "a risk of serious harm to P" and/or "a risk of serious physical harm to others" (MCA CoP, 7.6-7.11). The patient's human rights have been considered in respect of this decision (MCA CoP 7.18).

The emergency provisions of the MCA (2016) and MCA CoP (2019) enables a patient to be taken "to a place where a detention amounting to a DoL is to be carried out for the first time" or "re-taken to that place if he or she has left (whether with permission or not)" para (MCA CoP 7.24-7.25).

The Code adds: "This can happen even if P resists and force can be used" (MCA CoP 7.25 MCA).

Use of force in emergency situations requiring "serious compulsory interventions", is further clarified in Section 64(2) of the MCA (2016). This highlights that "where an act is done which—

- (a) is a use of force or a threat to use force, and
- (b) is done with the intention of securing the doing of another act in connection with the care, treatment or personal welfare of a person which that person resists, the act mentioned in paragraph (a) is to be taken to be part of the same intervention as the act mentioned in paragraph (b)" – (MCA, 2016).

The Code of Practice adds that where necessary, PSNI and ambulance staff can be requested to assist with this process (MCA CoP, 7.26).

If you have any queries about this information please feel free to contact (*name; role*) on (*telephone number*) who will be happy to discuss your query.

Yours sincerely

Signature: _____

Title: _____

Date: _____