ADASS DoLS Priority Tool

directors of adass adult social services

A Screening tool to prioritise the allocation of new requests to authorise a deprivation of liberty.

Due to the impact of the Supreme Court judgement in June 2026 known as AGNI the current ADASS Priority tool has been reviewed to assist Councils. This judgement overturned the previous acid test and replaced it with a multifactorial test. The tool sets out the criteria which indicates that an urgent response may be needed to safeguard the individuals concerned. The use of this tool must be balanced against the legal criteria for the DoLS which remain unchanged. ADASS has endorsed the use of this tool with thanks to WMADASS. Those situations which are not identified as a high priority may no longer meet the threshold of a deprivation of liberty, but ADASS recommends an initial proportionate assessment by a Best Interests Assessor to determine this (we recommend a Form 3A or similar)

This screening tool is an indicative guide only as it will generally be based on information provided by the Managing Authority in the application and each case must be judged on its own facts. The tool will be reviewed again as case law and practice develops and at the latest 12 months from the date shown.

HIGH	LOWER
A situation which appears to meet the multifactorial test for a deprivation of liberty as determined by AGNI in the Supreme Court and requires the safeguards.	A new application which does not appear to meet the multifactorial test as described in AGNI or a situation which may previously have met the acid test but no longer meets the test as detailed in AGNI
• Active objections from the person to care or accommodation in the setting (verbal or physical, e.g. repeatedly saying they want to go or packing bags) • Meaningful, successive attempts to leave not simply leaving due to disorientation. • Sedation/medication is used frequently PRN to control behaviour (particularly covert medication); this has not been regularly reviewed, and the person is negatively impacted. • Physical restraint is used regularly which causes distress to the person and goes beyond what is generally expected in the setting. • Coercion is present, throughout the care plan the person's wishes are overruled • Restrictions on family/friends visiting or wider social contact • The person's current or prior wishes suggest they would want to leave and the person is unhappy.	• Evidence that this is a settled living arrangement with no evidence of objection, from the person or their family but may have met the requirements of the acid test. • Evidence that the person chose the care home previously, with mental capacity, and is not distressed there now they have lost capacity. • Minimal negative impact on the person from the type, duration, effects and manner of implementation of any restrictions. • No evidence of specific restraint or restrictions being used beyond what is expected in the type of setting. • There is no sense of coercion or overruling the persons will • There are no restrictions on the person's social contacts and or family/friends visits • Any wish to leave would be considered/facilitated • The placement accords with the current or past wishes of the person

HIGH	LOWER
• Objections from family /friends or family seeking to move the person in an unplanned way. • Anticipated or active challenge or proceedings in Court of Protection, or application for Deputyship including a DoL. • A Psychiatric setting where the person has been assessed to not meet the criteria for MHA detention but there is disagreement as to whether this decision is appropriate. • Acute hospital referrals where there are any of the above factors, which cannot be managed even in the short term. • The person is able to leave but would not be allowed to leave	• The person is receiving care/treatment in an Acute hospital and the only restrictions in place are necessary to enable medical treatment, and the person is not resistant. • The persons disability or impairment is such that they cannot exercise liberty and there is no evidence of distress • The person is physically unable to leave but there is no evidence to suggest that they would want to leave • A person in a psychiatric setting who is no longer detained nor likely to be, waiting for a further placement, no objection present and not requesting to leave.

- NB: The so-called Ferreira carve out still applies where the person is so unwell that they are at immediate risk of dying anywhere other than in hospital and the arrangements for delivering treatment are the same as they would be if the patient could agree, this is not a deprivation of liberty.

Renewals or further Authorisations

Councils vary in their ability to respond to renewal requests. Sometimes for internal operational reasons and sometimes due to sheer volume. The approach to renewals may be seen differently post AGNI and over time these may reduce but currently there still needs to be an analysis of risk. Renewals will previously have met the acid test but may not meet the AGNI test. The above criteria can be used to prioritise those renewals which are still likely to be a deprivation of liberty. There are still several proportionate methods which can be employed to process renewals, but these now need to be seen in the light of AGNI, for example it may no longer be adequate to use all six equivalent assessments unless there is some initial prioritisation to suggest the AGNI test will be met. The following is still recommended as best practice

- Renewals should be identified at least 28 days in advance so that equivalent or proportionate assessments can be used.
- Renewals must be in place without a gap where cases are the subject of Court of Protection processes.
- Where practicable, renewals where there is evidence of any of the factors in the higher priority category should also be prioritised.

'Unbefriended'

HIGH	LOWER
There are some people who might be viewed as high priority because they have no family or friends to support them. However, in the absence of any of the above factors which suggest higher priority the following is recommended as the way forward.	
• Identify those needing an IMCA from Forms 1 or 2 • Refer for an IMCA • When the IMCA report is complete, screen again for any factors suggesting higher priority.	

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