

Inspection Top Tips

Deprivation of Liberty Safeguards

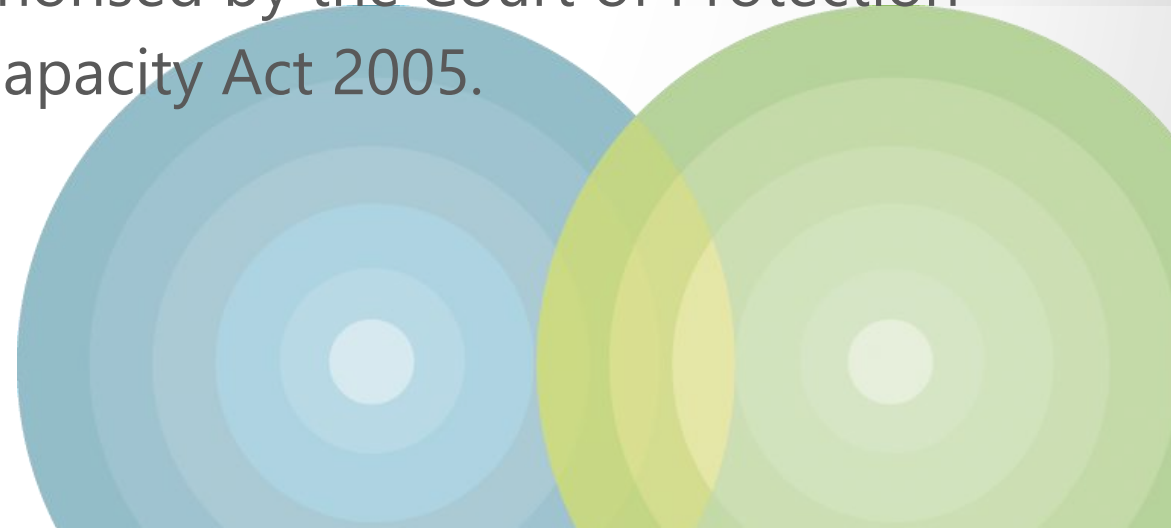
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Children's Homes Guide

9.63 A deprivation of liberty may occur where a child is both under continuous supervision and control and is not free to leave the home.

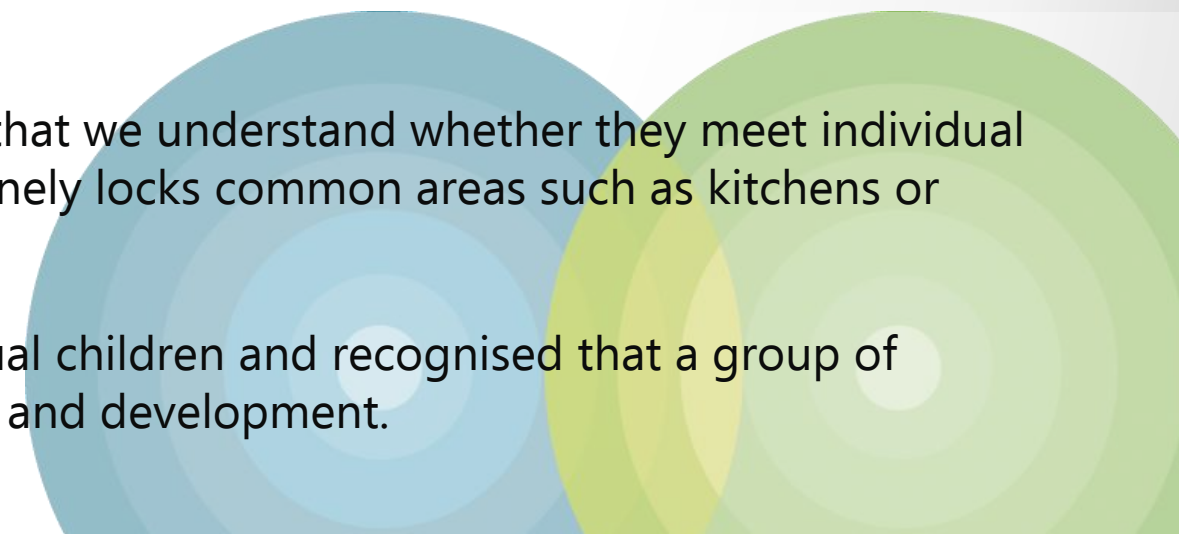
A children's home cannot routinely deprive a child of their liberty without a court order, such as a **section 25 order** to place a child in a licensed secure children's home, or, in the case of young people aged over 16 who lack mental capacity, a deprivation of liberty may be authorised by the Court of Protection following an application under the Mental Capacity Act 2005.

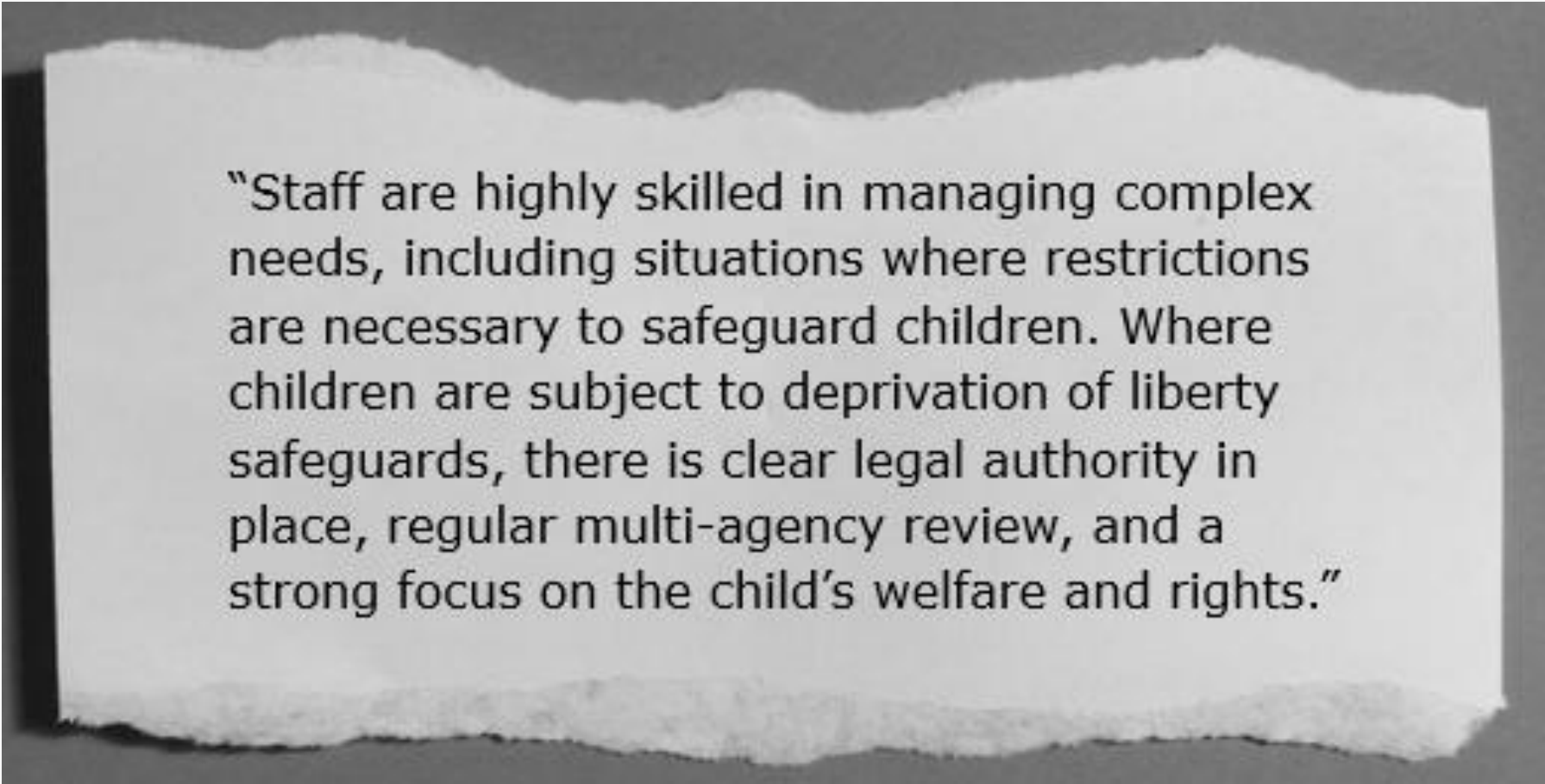


Children's Homes SCCIF

Key elements around Deprivation of Liberty are included in Positive environments where children can flourish:


- We should always question the use of restrictions on children's movement and/or intrusive observations
- We need to know what else has been tried to meet the needs of the child
- That the practice is kept under review and that steps are taken to use a less restrictive approach wherever possible.
- Practitioners need to recognise this and think about what the least possible restrictions are to keep a child safe and promote their independence.
- Always question blanket approaches to restrictions so that we understand whether they meet individual children's needs. One example is when a provider routinely locks common areas such as kitchens or lounges.
- Evidence that any has been proportionate with individual children and recognised that a group of children can all be at different stages of understanding and development.





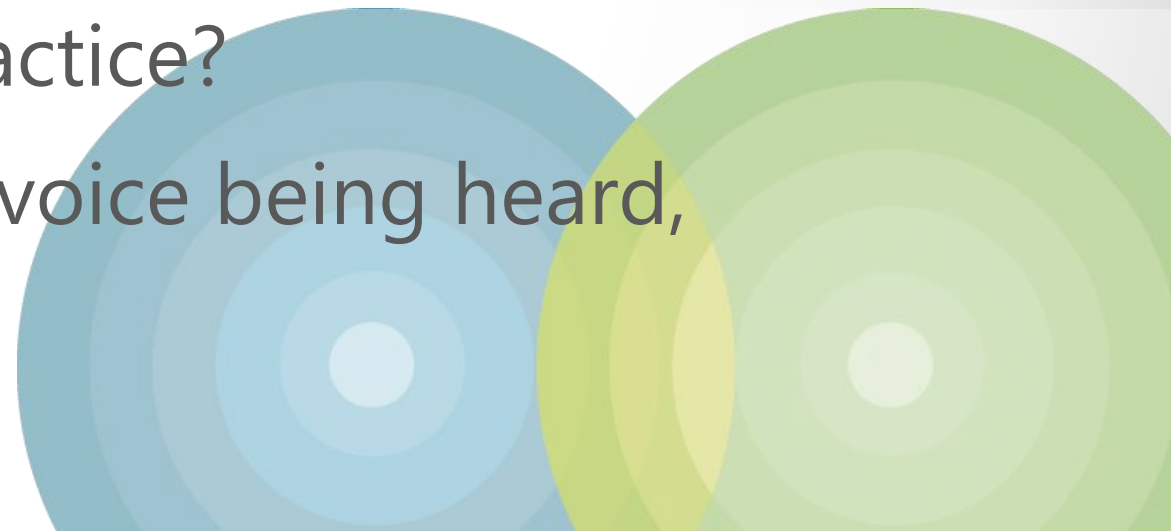
“Staff are highly skilled in managing complex needs, including situations where restrictions are necessary to safeguard children. Where children are subject to deprivation of liberty safeguards, there is clear legal authority in place, regular multi-agency review, and a strong focus on the child’s welfare and rights.”

Top tips...

1. **Keep court orders current and reviewed regularly.** Any deprivation of liberty without proper legal authorisation is unlawful, even with good intentions.
 2. **Ensure staff are aware of what has been authorised** (e.g., locks, physical interventions, one-to-one supervision).
 3. **Maintain detailed care plans and risk assessments** outlining why restrictions are necessary; what alternative strategies were tried and how the child is supported to understand.
 4. **Keep records of all multi-agency discussions** and reviews to support actions where a child's liberty has been restricted.
 5. **Use advocates, social workers, and key workers** to help the child understand their situation and how the restrictions can be removed
 6. **Regularly check in with the child's views,** feelings, and wishes.
 7. **Constantly ask: "Is this still needed?"** set clear step-down goals to reduce restrictions over time.
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Questions to consider...

- Is it lawfully authorised (e.g. via the Court of Protection or High Court under inherent jurisdiction)?
- Is it clearly in the best interests of the child?
- Have you demonstrated rigorous oversight, individualised care planning, and regular review of care provided to minimise need of restrictive practice?
- Is there evidence of the child's voice being heard, including advocacy support?



Where next...

Training on MCA/DoLS

With case law having changed the landscape around mental capacity and deprivation of liberty significantly in recent years, it is important that leaders and staff are aware of how their actions in relation to the young people in their care may result in decisions which come under the remit of mental capacity and may potentially be depriving a young person of their liberty. This course will provide an understanding of the law and its implications for decision making.

We're currently gathering interest for our next course.... Please visit www.dialogueltd.co.uk/mca to register your interest.

