

# SET Guidance on BIA Re-approval

## Southend Essex Thurrock (SET) MCA DoLS Best Interests Assessors (BIAs) Standards and Process for Re-approval by Supervisory Bodies

Southend Safeguarding Adults Board  
Essex Safeguarding Adults Board  
Thurrock Safeguarding Adults Board



August 2016  
Version 2

## Document Control Sheet

<b>Title of Policy:</b>	SET Guidance on BIA Re-Approval
<b>Purpose of Policy:</b>	To outline the process and requirements for Best Interests Assessors, carrying out Deprivation of Liberty Safeguards (DoLS) assessments across Southend, Essex and Thurrock to gain re-approval of their professional status to allow for continued work.
<b>Type of Policy:</b>	Procedural guidance
<b>Target Audience:</b>	All qualified Best Interests Assessors commissioned by, Southend, Essex and Thurrock respectively. Supervisory Bodies of Southend, Essex and Thurrock
<b>Date policy approved:</b>	November 2016
<b>Review Date:</b>	November 2018
<b>This policy replaces:</b>	N/A
<b>This policy should be read alongside:</b>	This policy is compliant with all relevant legislation at the time of publication and adheres to the Mental Capacity Act (2005) including Deprivation of Liberty Safeguards (2009) and Codes of Practice. It is compliant with The MCA (Deprivation of Liberty: Standard Authorisations and Ordinary Residence Regulations 2008).
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## Introduction

Supervisor Bodies are required to select a Best Interest Assessor (BIA) to undertake the necessary assessment or review as soon as it has confirmed the request for a standard authorisation should be pursued. The criteria for selecting an assessor are stated in:

- ***The Mental Capacity (Deprivation of Liberty: Standard Authorisations, Assessments and Ordinary Residence Regulations 2008)*** part 2, part 3
- ***The Mental Capacity Act 2005 Schedule A1 2009*** part 9, para 129, para 130
- ***Deprivation of Liberty Safeguards Code of Practice 2009*** Ch 4.13 and Ch 4.60

It is a legal requirement that all Best Interests Assessors (BIAs) have 'completed further training relevant to their role' within each 12 month period prior to any Deprivation of Liberty Safeguards (DOLS) assessments they complete. Failure to do so would invalidate any DOLS assessments they subsequently undertake.

Supervisory Bodies should ensure that sufficient assessors are available to meet their needs, and must be satisfied in each case that the assessors have the skills, experience, qualifications and training required by Regulations to perform the function effectively.

The Regulations also require Supervisory Bodies to be satisfied that there is an appropriate criminal record certificate issued in respect of an assessor. It will be useful to keep a record of qualified assessors and their experience and availability. Supervisory bodies should consider making arrangements to ensure that assessors have the necessary opportunities to maintain their skills and knowledge (of legal developments, for example) and share, audit and review their practice.

Supervisory Bodies must also be satisfied that BIAs are not suspended from the register of their relevant professional regulator, have at least 2 years post-qualification experience in one of the relevant professions before qualifying and practicing as a BIA, have completed a training from a University that delivers training approved by the Secretary of State / Department of Health, and have further training relevant to their role as a BIA within 12 month period of being selected to complete the assessment.

The process and requirements stipulated in this document apply equally to BIAs who are employees of the Supervisory Bodies, as well as independent and self-employed practitioners. The requirements relate to those BIAs who complete assessments under MCA DoLS on behalf of the Supervisory Body and are considered both qualified and in practice. Separate arrangements may exist for professionals who are qualified but not in practice, and/or

complete functions in relation to signing off and authorising deprivation of liberty under DoLS.

Supervisory Bodies are responsible for ensuring that any BIA selected to undertake an assessment is eligible to practice. They are required to ensure that the BIA is not a relative of the relevant person, and is not involved in the care or treatment of the relevant person, and that they do not have a financial interest in the case.

**The SET recommends that Supervisory Bodies should have evidence that as a minimum standard:**

1. Practicing BIAs must complete at least **18 hours training** on MCA/DOLS which must include an update on case law developments and any changes in legislation. This must comprise of a **minimum 12 hours attended, formal face to face training**, and additional **6 hours of a of self-directed learning**, i. e webinars, e-learning, **or 18 hours of formal face to face, attended training.**
2. The training attended and completed must be relevant to their role as a BIA. Provision of training to others cannot be considered as own training.
3. For BIAs who are also AMHP's and undertake DoLS Eligibility Assessments, update training should also include an exploration of any case law developments on the interface between the MCA and the MHA.
4. BIAs can only be commissioned to undertake an assessment if a training session has been successfully completed within 12 months prior to selection.
5. BIAs must have completed relevant assessments (or at least evidentially shadowed another BIA if due to exceptional circumstances there had not been an opportunity to personally complete an assessment) for a minimum of **three DOLS authorisation requests** within the year. Where this opportunity does not exist locally for a BIA it is recommended that they seek opportunities from neighbouring Supervisory Bodies who should seek to accommodate such requests where possible.
6. BIAs must attend a minimum of **three local or regional MCA DoLS Practice Forums** where they have opportunities to refresh their knowledge of the Act and reflect on and discuss practice issues .This is in addition to the 18 hours of relevant CPD.
7. BIAs must receive **supervision** (minimum of four-monthly/ 3 a year) in relation to their practice under MCA DoLS. Supervision is a reflective process in which the supervisor and supervisee agree to take part. The

format must be agreed in advance and can include: peer supervision, 1:1 supervision or group supervision. Telephone supervision can be provided as long as both parties agree to consider this conversation a supervision. In that case this is considered 1:1 supervision.

8. Supervision is not the same as Practice forum and cannot be considered as such. Supervisory Bodies, as part of the Re-approval Process may ask for evidence of supervision sessions attendance.

It may be helpful to bear in mind that:

‘Supervision is a joint endeavour in which a practitioner with the help of a supervisor, attends to their clients, themselves as part of their client practitioner relationships and the wider systemic context, and by so doing improves the quality of their work, transforms their client relationships, continuously develops themselves, their practice and the wider profession’ (Hawkins P., Shohet R., 2012: 60).

Peer supervision can be either individually reciprocal or in a group of workers with similar needs, approach and level of expertise. (Hawkins P., Shohet R., 2012: 192). (*Supervision in the helping profession, OUP*).

The training and development of individual BIAs, who are employees of statutory organisations, should be recognised in the appropriate professional appraisal process.

Although at present time there is no requirement in the Regulations for a specific Re-approval process, the Regulation 3 and 5 of the Assessment Regulations (SI 2008/ 1858) set out that a Supervisory Body can only appoint an assessor (other than a person undertaking an age assessment) where they are satisfied that the person:

- a) is insured in respect of any liabilities that might arise in connection with carrying out the assessment; and
- b) has an enhanced criminal record certificate (via DBS); and
- c) has the skills and experience appropriate to the assessment to be carried out, which must include but are not limited to an applied knowledge of the MCA 2005 and the Code of Practice, and the ability to keep appropriate records and to provide clear and reasoned reports in accordance with legal requirements and good practice; and
- d) has the necessary skills to obtain, evaluate and analyse complex evidence and differing views and to weigh them appropriately in decision making.

In order to establish and be satisfied that a Best Interests Assessor has the skills, knowledge and experience appropriate to the assessment, Southend, Essex and Thurrock Supervisory Bodies agree and recommended that all

practicing BIAs must submit a portfolio summarising the evidence above to the Supervisory Body on an annual basis via the agreed Re-approval process.

It is recommended that portfolios should include an anonymised MCA DoLS assessment to demonstrate their competence in practice. (A pro-forma for Portfolios is included in appendix 1).

Approval of BIAs should be undertaken by a Senior Manager within the Supervisory Body with relevant knowledge of MCA DoLS legislation. Supervisory Bodies must develop an appeal process should they decline to approve a BIA. BIAs who do not evidence competency through the reflective summary can be declined to be approved, in which case the appeal process, as well as relevant Appraisal process will apply.

A Supervisory Body can commission a BIA approved by another Supervisory Body only where that Supervisory Body can confirm that the BIA meets the minimum requirements to practice. Each BIA across the two agencies will be required to undertake a range of MCA DoLS related activity and training in the 12 month period from April 1<sup>st</sup> to March 31<sup>st</sup> in any given year to be re-approved as BIA assessors for the following year. Within that the BIA must have completed formal CPD training session within the 12 months prior to selection.

The MCA DoLS related activity will be recorded by the BIA on a 'BIA Re-approval Record' and submitted to the MCA DoLS Lead for their respective agency by the 31<sup>st</sup> of March.

The agency's MCA DoLS Lead (or another appropriate manager) will sign off the re-approval record if it appropriately satisfies the minimum requirements and confirm the outcome in writing to the BIA.

Both self-employed / independent, and in-house (employed by the Local Authority) BIAs will be taken off the approved list of BIAs held by the Supervisory Body if the minimum requirements for Re-approval have not been fulfilled. In-house BIAs should work together with their direct line manager and MCA DoLS Leads to produce a support plan to enable the BIA to meet minimum requirements as soon as possible. Independent self-employed BIAs are individually responsible for taking appropriate measures to meet the Re-approval requirements as soon as possible.

In case of BIAs who have not practiced for a period of time where they have not been able to meet the minimum requirements, i.e. career break, change in career pathway, although qualified, they will not be approved to practice until arrangements are put in place to meet the SET minimum standards and regulatory requirements. This may involve a need to re-train, complete a refresher course, or shadow another BIA (across agency borders if necessary), or a combination of the above. This should be decided by the respective Supervisory Body.

If a BIA anticipates that they may be in difficulty to meet the minimum requirements for Re-approval it is their responsibility to inform the MCA DoLS Lead as early as possible so that they have time to agree on ways to address it.

## Southend Essex Thurrock BIA Re-approval Record

	Requirement	Evidence that requirement is met. Please list all sessions that you have completed.	Date
1.	<b>Training – 18 hours training</b> on MCA/DOLS which must include an update on case law developments and any changes in legislation. This must comprise of a <b>minimum 12 hours attended, formal face to face training</b> , and additional <b>6 hours of a of self-directed learning</b> , i.e. webinars, e-learning, <b>or 18 hours of formal face to face, attended training.</b>		
2.	<b>MCA DoLS practice –</b> you must have completed a minimum of <b>3 assessments</b> . Please state Reference number (not name), client group and outcome of assessments. Please list up to 4 assessments from each quarter of this year, if possible.		
3.	<b>Attendance at BIA forums –</b> you must have attended at least <b>3 BIA forums</b> . Please provide details (dates, length, lead organiser, and describe briefly what you have gained from each forum).		

4.	<b>Reflective supervision on MCA DoLS related BIA activity</b> – you must have received supervision by an appropriate person in relation to your practice within the specialist field of MCA DoLS. Minimum 3 a year. (Please provide details: date, length)	
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**Appendix:** Please include an anonymised MCA DoLS assessment inclusive of all 4 assessment components completed by the BIA on behalf of the approving authority.

I declare that the above record is an accurate and true reflection of my MCA DoLS related training and practice for the period covering the **1<sup>st</sup> of April 20\_\_** until **31<sup>st</sup> March 20\_\_**

Name of BIA: .....

Organisation/ Local Authority: .....

Contact details: .....

Date qualified as BIA: .....

Date of completion of this record: .....

Signature.....

Please forward your completed form to the MCA DOLS Lead for your agency or another appropriate manager.

This BIA re-approval record meets at least the minimum requirements to enable (please add name of BIA) to continue to practice in the year (please add year).

This BIA's re-approval record does not meet the minimum requirements to enable (please add name of BIA) to continue to practice in the year (please add year). Therefore, they will be taken off the register until further evidence of meeting the requirements is received.

Please add any additional comments here: .....

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Name of person assessing this record.....

Signature..... Date.....