Chapter 4: The hospital setting - liberty restricting measures and questions for front-line staff

A  Factors that are likely to be taken into account when considering whether a deprivation of liberty is taking place in the hospital generally setting include:
   • Continuous monitoring;
   • Length of time sedated and/ or ventilated and/or intubated;
   • The use of restraint to bring about admission;
   • The use of restraint /medication being used forcibly during admission;
   • Staff taking decisions on a person’s behalf regarding treatments and contact with visitors;
   • Duration of the restrictions
   • The patient not being free to leave;
   • The package of care taken as a whole

B  The following are examples of potentially liberty-restricting measures that may be found in an A&E Department:
   • Physical restraint and the duration of any restraint;
   • The use of sedation;
   • The use of catheters and/or intravenous drips;
   • The observation and monitoring levels;
   • The requirement for a person to remain in a certain area of A&E department and restricting the person to that area;
   • The requirement that the person does not leave the A&E department pending further tests or transfer.

C  Factors which are likely to be taken into account when considering whether a deprivation of liberty is taking place in an intensive care unit include:
   • Continuous monitoring (almost a certainty in ICU);
   • Length of time sedated and/or ventilated and/or intubated;
   • The use of restraint to bring about admission;
   • The use of restraint /medication being used forcibly during admission;
   • Staff taking decisions on a person’s behalf regarding treatments and contact with visitors;
   • Duration of the restrictions
   • The patient not being free to leave the ICU;
   • The amount of time it is likely to take for the patient to recover capacity once they are extubated/taken off ventilation/ sedation;
   • The amount of time the patient is likely to remain in the ICU before moving from the ICU to a an acute ward, or a rehabilitation ward;
   • The package of care taken as a whole
The following are examples of potentially liberty restricting-measures that may be found in an acute ward:

- Physical restraint;
- Baffle-locks on ward doors;
- Mittens, or forms of restraint used to prevent a patient removing or interfering with a nasogastric feeding tube, or intravenous drip;
- Raised bedrails;
- Aether bag attached to bed;
- A patient being placed in a chair and being unable to move from the chair without assistance;
- Frequency and intensity of observation and monitoring levels;
- The requirement for a patient to remain in a certain area of the ward;
- The requirement that a patient does not leave the ward, accompanied by a plan that, if he does he will be returned to the ward.

Factors to be taken into account when considering whether a deprivation of liberty is taking place in a hospice setting include:

- That the circumstances are no longer covered by a consent given on admission;
- Administering sedatives to decrease anxiety and agitation;
- Chemical restraint;
- Constant supervision in case of terminal agitation; and
- Restricting movement of patients who are mobile, so that they are not free to leave the hospice grounds because they may be a danger to themselves.

Questions for front-line practitioners

These questions may help establish whether an individual is deprived of their liberty in this context:

- What liberty-restricting measures are being taken?
- When are they required?
- For what period will they endure?
- What are the effects of any restraint or restrictions?
- What are the views of the person, their family or carers?
- How are any restraints or restrictions to be applied?
- Are there less restrictive options available?
- Is force or restraint (including sedation) being used to admit the patient to a hospital to which the person is resisting admission?
- Is force being used to prevent a patient leaving the hospital, hospice, or ambulance where the person is persistently trying to leave?
Identifying a deprivation of liberty: a practical guide

- Is the patient prevented from leaving by distraction locked doors, restraint, or because they are led to believe that they would be prevented from leaving if they tried?
- Is access to the patient by relatives or carers being severely restricted?
- Is the decision to admit the patient being opposed by relatives or carers who live with the patient?
- Has a relative or carer asked for the person to be discharged to their care and is the request opposed or has it been denied?
- Are the patient’s movements restricted within the care setting?
- Are family, friends or carers, prevented from moving the patient to another care setting or prevented from taking them out at all?
- Is the patient prevented from going outside the hospital or hospice (escorted or otherwise)?
- Is the patient’s behaviour and movements being controlled through the regular use of medication or, for example, seating from which the patient cannot get up, or by raised bed rails that prevent the patient leaving their bed?
- Does staff exercise complete control over the care and movement of the person for a significant period?
- Is the patient constantly monitored and observed throughout the day and night?