
STATUTORY RULES OF NORTHERN IRELAND

2019 No. 164

**The Mental Capacity (Deprivation of
Liberty) Regulations (Northern Ireland) 2019**

PART 4

Trust Panels

Panel membership

42.—(1) A panel must:

- (a) have three members, all of whom must be appointed by the relevant trust; and
- (b) consist of—
 - (i) one medical practitioner who is suitably qualified;
 - (ii) one approved social worker; and
 - (iii) one suitably qualified person.
- (2) The panel members must—
 - (a) be unconnected with P;
 - (b) not be involved in the care and treatment of P; and
 - (c) have completed training approved by the Department regarding the Act within 12 months of their first occurrence as a member of a panel.
- (3) The relevant trust must appoint one of the members as a chair of the panel.

Remuneration or allowances of auditor panel members

43. The relevant trust may pay members of the panel such remuneration or allowances as the trust may determine necessary to facilitate the member's participation on the panel.

Duty to record and retain information and records

44. All information and records received by, and produced by, the panel must be retained by the relevant trust for as long as is relevant, but no shorter period than 1 year after the authorisation comes to an end.

Assessment of the best interests

45.—(1) When determining if a deprivation of liberty would be in P's best interests, panel members must be satisfied that—

- (a) the determination is not based merely on P's age, appearance, or any other characteristic of P that would lead to unjustified assumptions being made regarding P's best interests;
- (b) all relevant circumstances have been considered;

- (c) waiting for a time in the future when P may regain capacity, if at all possible, to make the decision for themselves would not be in P's best interests;
 - (d) as far as practicable, P has been encouraged and supported to participate in the best interest determination;
 - (e) P's past and present wishes and feelings, beliefs and values and any other factors or written statements have been given special regard when reaching the determination;
 - (f) relevant people have been consulted, so far as practicable, and that the views of those people have been taken into account;
 - (g) the proposed deprivation of liberty is the least restrictive appropriate option; and
 - (h) regard has been given to whether failure to do the act is likely to result in harm to other persons with resulting harm to P.
- (2) Panel members may base their assessment of the requirements set out in paragraph (1) solely on the information provided within the application.

Decisions of the panel

46.—(1) Where a decision by the panel is not unanimous, an authorisation can be granted with the approval of a majority.

(2) The panel is not required to provide formal justification of its decision.

(3) The decision of the panel is to be based solely on the contents of the application Form and annexes to the application.

Definition for the purpose of Part 4

47. In this Part—

“P” means the person who is the subject of the application to the panel requesting authorisation for a deprivation of liberty;

“panel” means a panel constituted under Schedule 1 or 3 to the Act in accordance with section 297 of the Act; and

“permitted period” has the same meaning as in paragraph 19 of Schedule 1 or paragraph 9 of Schedule 3 to the Act;