

2019 No. 232

MENTAL CAPACITY

**The Mental Capacity (Deprivation of Liberty) (No. 2)
(Amendment) Regulations (Northern Ireland) 2019**

Made - - - - *17th December 2019*

Coming into operation - *8th January 2020*

The Department of Health^(a), in exercise of the powers conferred by sections paragraph 7(1) and 7(1)(c) of Schedule 1, paragraph 4(1) and 4(1)(c) of Schedule 2 and paragraph 5(1) and 5(1)(c) of Schedule 3 to the Mental Capacity Act (Northern Ireland) 2016^(b), makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Mental Capacity (Deprivation of Liberty) (No. 2) (Amendment) Regulations (Northern Ireland) 2019 and shall come into operation on 8th January 2020.

(2) In these Regulations—

“the principal Regulations” means the Mental Capacity (Deprivation of Liberty) (No. 2) Regulations (Northern Ireland) 2019^(c).

Amendments to the principal Regulations

2. In the Schedule to the principal Regulations, for Form 6 there shall be substituted Form 6 in the Schedule.

Sealed with the Official Seal of the Department of Health on 17th December 2019.

(L.S.)

Mark Lee
A senior officer of the Department of Health

(a) 2016 c. 5 (NI), s1(5)
(b) 2016 c. 18 (NI)
(c) S.R. 2019 No. 199

SCHEDULE
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<i>Form</i>	<i>Title</i>
Form 6	Medical report

Form 6 – Medical report

A medical report must be attached to a Form 5, application for trust panel authorisation, Form 8, short-term detention authorisation and Form 16, application for trust panel extension authorisation.

The medical report must be done by a medical practitioner who is suitably qualified and who is unconnected to the person.

1. The person's details (a label can also be affixed here)

Name:

Address:

Date of Birth:

HSC number (if known):

2. Medical practitioner who is making the report

Name:

Work address:

Phone number:

Job title, team and staff number:

Professional relationship to person:

3. Criteria for authorisation – care and treatment

Is care and treatment available in the place where the person will be deprived of liberty?

Yes / No (delete as appropriate)

Provide details on the care and treatment.

Further sheets can be added if required.

4. Criteria for authorisation – lack of capacity

Have you personally completed a Form 1 – statement of incapacity? **Yes / No** (delete as appropriate)

If yes, continue to section 5.

If no, fill out the rest of section 4.

Provide details of how the person lacks capacity to make the decision, including how the statement of incapacity has been considered.

References can be made to Form 1 – formal assessment of capacity.

Further sheets can be added if required.

5. **Criteria for authorisation – best interests**

Have you personally completed a Form 2 – best interests determination statement? **Yes / No** (delete as appropriate)

If yes, continue to section 6.

If no, fill out the rest of section 5.

The nominated person must be consulted with during the best interests determination, if it is practicable and appropriate to do so. If it is not practicable and appropriate provide details.

The nominated person's details:

Name:

Address:

Phone number:

The nominated person has been **appointed by the person / selected from the default list / been appointed by the Tribunal**. (Delete as appropriate).

Provide details of how the intervention is in the person's best interests, including how the best interests determination statement has been considered.

References can be made to Form 2 – best interests statement.

Further sheets can be added if required.

6. **Criteria for authorisation – risk of serious harm**

Would failing to detain the person in circumstances amounting to a deprivation of liberty create a risk of serious harm to the person or of serious physical harm to other persons? **Yes / No** (delete as appropriate)

If yes, explain why the harm is considered serious.

If no, the person cannot be deprived of liberty.

Further sheets can be added if required

7. **Criteria for authorisation – proportionate response to the likelihood and seriousness of the harm**

Is the detention proportionate to:

the likelihood of the harm? **Yes / No** (delete as appropriate)

the seriousness of the harm? **Yes / No** (delete as appropriate)

If yes provide details below.

If no to either, the person cannot be deprived of liberty.

Explain both how likely it is that harm will occur should P not be deprived of liberty and how serious that harm would be.

Further sheets can be added if required

Explain why the detention is an appropriate response in these circumstances and why alternatives are not suitable.

Further sheets can be added if required

8. **(Only for short-term detention) criteria for authorisation – illness / suspected illness**

Does the person have an illness or a suspected illness? **Yes / No** (delete as appropriate)

If there is no illness or suspected illness a short-term detention authorisation cannot be made.

Provide details of the illness or suspected illness.

Further sheets can be added if required

9. **Statement**

Statement

I am unconnected with the person in section 1 and I am suitably qualified to make a medical report under the Mental Capacity Act (Northern Ireland) 2016.

In my opinion the criteria for authorisation are met and I have examined the person in section 1 no more than two days before the date on which this report was signed.

Signature:

Date:

EXPLANATORY NOTE

(This note is not part of the Order)

These Regulations replace the Form 6 (medical report) in the Mental Capacity (Deprivation of Liberty) (No. 2) Regulations (Northern Ireland) 2019 with a new Form 6.

The new Form 6 (medical report) inserts a new section (section 7) which is a division of the original section 6 to ensure information on the risks, and the proportionality of the risks, is adequately captured on the Form.

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