

Changes to legislation: *Mental Capacity Act 2005, Paragraph 69 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

SCHEDULES

SCHEDULE A1

[^{F1}HOSPITAL AND CARE HOME RESIDENTS: DEPRIVATION OF LIBERTY]

Textual Amendments

- F1** Sch. A1 omitted (16.5.2019 for specified purposes) by virtue of [Mental Capacity \(Amendment\) Act 2019](#) (c. 18), s. 6(3), [Sch. 2 para. 2\(c\)](#)

[^{F1}PART 4

STANDARD AUTHORISATIONS

Right of third party to require consideration of whether authorisation needed

- 69 (1) This paragraph applies if an eligible person requests the supervisory body to decide whether or not there is an unauthorised deprivation of liberty.
- (2) The supervisory body must select and appoint a person to carry out an assessment of whether or not the relevant person is a detained resident.
- (3) But the supervisory body need not select and appoint a person to carry out such an assessment in either of these cases.
- (4) The first case is where it appears to the supervisory body that the request by the eligible person is frivolous or vexatious.
- (5) The second case is where it appears to the supervisory body that—
- (a) the question of whether or not there is an unauthorised deprivation of liberty has already been decided, and
 - (b) since that decision, there has been no change of circumstances which would merit the question being decided again.
- (6) The supervisory body must not select and appoint a person to carry out an assessment under this paragraph unless it appears to the supervisory body that the person would be—
- (a) suitable to carry out a best interests assessment (if one were obtained in connection with a request for a standard authorisation relating to the relevant person), and
 - (b) eligible to carry out such a best interests assessment.
- (7) The supervisory body must notify the persons specified in sub-paragraph (8)—
- (a) that the supervisory body have been requested to decide whether or not there is an unauthorised deprivation of liberty;

Changes to legislation: *Mental Capacity Act 2005, Paragraph 69 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- (b) of their decision whether or not to select and appoint a person to carry out an assessment under this paragraph;
 - (c) if their decision is to select and appoint a person, of the person appointed.
- (8) The persons referred to in sub-paragraph (7) are—
- (a) the eligible person who made the request under paragraph 68;
 - (b) the person to whom the request relates;
 - (c) the managing authority of the relevant hospital or care home;
 - (d) any section 39A IMCA.]

Changes to legislation:

Mental Capacity Act 2005, Paragraph 69 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

[View outstanding changes](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 58(4)(ca) inserted by [2023 c. 42 Sch. para. 10](#)
- Sch. 1 para. 4A inserted by [2023 c. 42 Sch. para. 3](#)
- Sch. 1 para. 10A and cross-heading inserted by [2023 c. 42 Sch. para. 6](#)
- Sch. 1 para. 13A inserted by [2023 c. 42 Sch. para. 7\(2\)](#)
- Sch. 1 para. 16(1A) inserted by [2023 c. 42 Sch. para. 8\(b\)](#)