



# Safer Seven

On: Liberty Protection Safeguards



## 1. What is Liberty Protection Safeguards?

The Deprivation of Liberty Safeguards (DoLS) were introduced in 2009. It gave a legal framework for adults to be deprived of their liberty in hospitals and care homes when the person lacks the relevant capacity.

DoLS have been heavily criticised since their inception, and in 2014 a House of Lords select Committee concluded that DoLS legislation was **not fit for purpose**. There was also a decision of the Supreme Court in 2014, which was known as “Cheshire West”. This increased the number and scope of DoLS referrals.

In 2015 the Law Commission reviewed DoLS legislation and, after consultation, a final report was issued in 2017, setting out a new scheme called LPS which as part of the Mental Capacity (Amendment) Bill, received Royal Assent May 2019.

## 3. What are the changes from DoLS to LPS

- Age: Currently 18+ this will now be 16+
- Care Environments: this is being extended from Hospitals and Care Homes to Anywhere, including for example Supported Accommodation and the persons own home.
- Transport: the arrangements to convey the cared for person are included.
- Urgent LPS is now only for life- sustaining treatment or a Vital Act

## 5. Assessment Framework

These assessments will be needed.

- Age
- Mental Capacity
- Mental Disorder
- Deprivation of liberty
- Necessary and Proportionate
- Consultation
- Excluded arrangements (Mental Health act)
- Is the person objecting (AMCP required)?
- Is there an Appropriate Person? (If not, need IMCA)

## 7. What to do next

For further information surrounding LPS please visit <https://www.gov.uk/government/publications/liberty-protection-safeguards-factsheets>

More information is available from SCIE via <https://www.scie.org.uk/mca/lps>

## 2. The national picture

- The expected start date of LPS is likely to be April 2022.
- Statutory regulations giving further details on some parts of the legislation and The Code of Practice are awaited. Once published there will be a public consultation, which should run for 12 weeks.
- Training – the Department for Health and Social Care (DHSC) will define training for Approved Mental Capacity Professionals (AMCPs) and decide on the commissioning of training for other staff as well as general awareness raising for stakeholders and citizens.

## 4. Other changes to note:

Currently the Local Authority is the Supervisory Body.

Under LPS this will change to Responsible Body and will now include NHS Trusts, CCG, and the Local Authority – whoever is providing or mainly commissioning care.

They arrange assessments, authorise the detention, monitor it and are responsible for Reviews and appeals to the Court of Protection. LPS are initially for a maximum of 1 year.

They can be Renewable for a further year, and then 3 years. LPS will no longer have conditions.

## 6. People

Mental Capacity and Mental Disorder assessments are likely to require regulated professionals. Other assessments could be completed by anyone instructed by the Responsible Body.

For the Pre-authorisation Review the Responsible Body identifies a person not involved in the ‘day to day’ care or treatment of the person, to read the completed assessments and decide if the criteria for LPS are met.

If there is reasonable belief to think the person is or may object to the care or treatment the AMCP – Approved Mental Capacity Practitioner will undertake the pre-authorisation Review.