

Liberty Protection Safeguards (LPS)

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Brief history:

- Deprivation of Liberty Safeguards – deemed ‘not fit for purpose’ by the House of Lords and had become untenable due to the numbers of cases
- Law commission were asked by government to produce a more cost effective and fit for purpose alternative
- In March 2018 the government decided to accept the Law commissions proposal to replace DoLS with LPS

LPS main features:

- Being brought in 1st October 2020
- Apply to people aged 16 and above
- It will apply to all settings. An authorisation under the LPS can cover more than one setting where the person is being deprived of their liberty.
- ‘Responsible body’:
 - For hospital cases it’s the hospital manager (except independent hospitals)
 - If health are funding it’s the CCG
 - For everyone else it’s local authority (including self funders & independent hospitals)

- Authorisations should be in place in advance of any deprivation of liberty unless it is an urgent, life threatening situation
- Acid test remains the same – continuous supervision and control and not free to leave
- All cases must either have family / friend for support or advocate from the beginning
- For all cases apart from care homes: Responsible body ensure that 3 assessments are completed (capacity, mental disorder and necessary & proportionate)
- For care home cases, the care home manager can collate the assessments where agreed by the responsible body

- Conditions required for LPS:
 - The person lacks capacity
 - Person must have a mental disorder
 - The arrangements must be necessary and proportionate
 - Full consultation must be carried out
 - No conflict with LPA or deputy decision
- A pre-authorisation review must be completed by either an independent reviewer must review every case or by Approved Mental Capacity Professional (AMCP) if the person objects to the arrangements
- Can be put in place up to 28 days before placement
- Need to set up intervals for reviews. Reviews can also be requested.

LPS – a little more detail:

Notification:

- Staff in Responsible Body (RB) realise LPS required OR
- Care home notifies of LPS assessments being required (if P over 18, RB determines if care home should collate assessments)

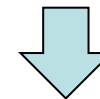


Route 1 – Care home:

- Collate assessments
- Submit to Responsible Body with statement and Draft Authorisation record



Route 2 – Staff in Responsible Body collate assessments



Pre-authorisation review

Reviewer

AMCP

Completed by Responsible Body
Determines if Conditions Met
Authorises LPS – Authorisation record



Responsible body will need to:

- Record details and review dates
- Send out copies and details of LPS authorisation and rights to P and designated others

Main differences between DoLS & LPS:

Deprivation of Liberty Safeguards	Liberty Protection Safeguards
Applies to care homes / hospitals and can only apply to one setting	Applies to all settings and can be used to approve deprivation in multiple places
All cases have Best Interests Assessor (BIA) completing certain assessments	Assessments completed / collated by a worker in the responsible body or collated by care home (when agreed by the responsible body). Only goes to Approved Mental Capacity Professional (AMCP) at review stage if the person is objecting (or AMCP and reviewer agree it is required)
6 assessments – age, no refusals, mental capacity, best interests, mental health and eligibility	3 assessments – capacity, mental disorder and necessary & proportionate

Deprivation of Liberty Safeguards	Liberty Protection Safeguards
All assessments commissioned and authorised by local authority (supervisory body)	Initial assessments completed / commissioned by hospital / CCGs / local authority (responsible body) or if agreed by responsible body, the care home for people in care homes
Deprivation approved by local authority authoriser	Reviewer or AMCP reviews the case for the responsible body.
12 months in longest duration	First 2 years, 12 months can be longest duration, then can be up to 3 years
BIA employed by local authority	Local authority has responsibility for making sure there are enough AMCP's and they have sufficient training

Deprivation of Liberty Safeguards	Liberty Protection Safeguards
Urgent authorisations can be put in place	No urgent authorisations – there are emergency procedures instead
Conditions can be added to the authorisation	Conditions cannot be added to the authorisation
Considers whether the deprivation is in the person's best interests	Rather than considering best interests, consider whether the deprivation is necessary and proportionate
Can use equivalent assessments up to 12 months old	Provision for using older capacity and mental disorder assessments

Next steps:

- Planning for how responsible bodies will complete this work
- Code of practice with specifics
- An updated impact assessment (concerns have been raised about the current one)