

Deprivation of Liberty Safeguards Towards Liberty Protection Safeguards

Implications of the 2017 Law Commission Report

Friday 8 December 2017 De Vere West One Conference Centre, London

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Topics Include:

- Learning from a personal perspective
- Towards the Liberty Protection Safeguards: The Law Commission's DoLS Review: The Final Report, Recommendations and Draft Bill
- Liberty Protection Safeguards: Ensuring effective use and compliance with the recommendations in practice
- Stream A: Hospitals
 - DoLS and Intensive Care
 - The bigger picture: Ethical issues and difficult decisions and discussions
- Stream B: Supervisory Bodies
 - Ensuring effective outcomes: The Supervisory Body - Assessments and Authorisations
- Best Interest Assessment Practice
- Monitoring the Deprivation of Liberty Safeguards

Chair and Speakers Include:

Alex Ruck Keene

*Barrister 39 Essex Chambers
& Former Consultant, Mental Capacity & Deprivation
of Liberty Project The Law Commission*

Tim Spencer Lane

*Lawyer
Law Commission for England and Wales*

Supporting Organisations



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"The Law Commission recommends that DoLS are repealed as a matter of urgency, and are replaced by a new scheme called the Liberty Protection Safeguards. This intends to streamline the process for assessing whether a deprivation of liberty is necessary, and obtaining the required authorisation. The Liberty Protection Safeguards would also authorise particular arrangements and conditions for a person's care or treatment, rather than simply authorising a deprivation of liberty... Under the new scheme, when there is a potential deprivation of liberty, the responsible body – the NHS body or local authority - arranges three assessments: a capacity assessment, a medical assessment, and a 'necessary and proportionate' assessment. They must also consult with friends and family of the relevant person. Each case is verified by an "independent reviewer", and those where the placement are contrary to the person's wishes are referred to an Approved Mental Capacity Profession (AMCP)." House of Commons Briefing Paper, 2nd October 2017

Chaired by Alex Ruck Keene Barrister, 39 Essex Chambers & Former Consultant, Mental Capacity and Deprivation of Liberty Project, The Law Commission this conference will update delegates on the implications of the March 2017 Law Commission Report and the practicalities of moving towards Liberty Protection Safeguards in your service.

This conference will provide you with the option of 2 streams specifically designed to focus on your area of expertise with Stream A focusing on Hospitals and Stream B focusing on Supervisory Bodies.

"We continue to see variation in the practical application of the Deprivation of Liberty Safeguards (DoLS) with uneven use across the health and social care sector – this can lead to people being at risk of having their rights and liberty restricted without a lawful process" Care Quality Commission 10th October 2017

On 13th March 2017, The Law Commission published their Report on the Deprivation of Liberty Safeguards. Following public consultation, the Law Commission is recommending replacing the law with a new scheme, called the Liberty Protection Safeguards. This would mean:

- enhanced rights to advocacy and periodic checks on the care or treatment arrangements for those most in need
- greater prominence given to issues of the person's human rights, and of whether a deprivation of their liberty is necessary and proportionate, at the stage at which arrangements are being devised
- extending protections to all care settings such as supported living and domestic settings –therefore removing the need for costly and impractical applications to the Court of Protection
- widening the scope to cover 16 and 17 year olds and planned moves between settings
- cutting unnecessary duplication by taking into account previous assessments, enabling authorisations to cover more than one setting and allowing renewals for those with long-term conditions
- extending who is responsible for giving authorisations from councils to the NHS if in a hospital or NHS health care setting
- a simplified version of the best interests assessment which emphasises that, in all cases, arrangements must be necessary and proportionate before they can be authorised.

Law Commissioner Nicolas Paines QC said: "The Deprivation of Liberty Safeguards were designed at a time when considerably fewer people were considered deprived of their liberty. Now they are failing those they were set up to protect. The current system needs to be scrapped and replaced right away."

"We know there are enormous pressures on health and adult social care at the moment and our reforms will not only mean that everyone is given the protections they need, but could also deliver a saving to the taxpayer. That's cash that can then be directly reinvested to support those most in need."

"It's not right that people with dementia and learning disabilities are being denied their freedoms unlawfully. There are unnecessary costs and backlogs at every turn, and all too often family members are left without the support they need."

The final report with recommendations to government for reform is published here: <http://www.lawcom.gov.uk/project/mental-capacity-and-deprivation-of-liberty/>

10.00 Chair's Welcome & Introduction

Alex Ruck Keene *Barrister 39 Essex Chambers and Former Consultant, Mental Capacity and Deprivation of Liberty Project* The Law Commission

10.10 Learning from a personal perspective

Paul Scates
Senior Peer Specialist, Campaigner and Ambassador

- DoLS from a service user perspective
- how it feels in practice
- my experience

10.30 EXTENDED SESSION: Towards Liberty Protection Safeguards

The Law Commission's DoLS Review: The Final Report, Recommendations and Draft Bill

Tim Spencer Lane
Lawyer
Law Commission for England and Wales

- The Law Commission's final report and draft bill was published in March 2017
- the flaws with the current system, and case law examples
 - providing appropriate care and better outcomes for people who lack mental capacity and helping their family and carers.
 - moving from DoLS to Liberty Protection Safeguards: a look at the Law Commission's final report and proposals for DoLS reform
 - what could provisions look like under a new system?
 - the levels of safeguards under the proposed system
 - moving forward: implications for practice

11.15 *Question and answers, followed by tea & coffee at 11.20*

11.35 EXTENDED SESSION: Liberty Protection Safeguards

Ensuring effective use and compliance with the recommendations in practice

Alex Ruck Keene
Barrister 39 Essex Chambers and Former Consultant, Mental Capacity and Deprivation of Liberty Project The Law Commission

- practical implications of the Law Commission Review
- ensuring compliance
- implications for current and future cases
- challenges, grey areas and difficult issues in practice
- current DoLS issues and what the future holds for Liberty Protection Safeguards
- Interactive discussion and group work

12.50 *Question and answers, followed by lunch at 13.00*

Conference Splits 14.00 - 15.30

Stream A: Hospitals 14.00 - 15.30

14.00 DoLS and Intensive Care

Dr Chris Danbury
Consultant in Anaesthetics & Intensive Care Medicine
Royal Berkshire Hospital
Visiting Fellow in Health Law University of Reading
& *Chair Legal and Ethical Policy Unit* Faculty of Intensive Care Medicine

- the challenges of DoLS in intensive care
- implications of *Ferreira, R v* Coroner of Inner South London
- Implications of the Law Commission recommendations
- practical advice and moving forward

14.45 Ethical decision making and DoLS in the acute Trust

Dr Premila Fade
Consultant Geriatrician
Northwick Park Hospital
and Harrow London North West Healthcare NHS Trust

- ethics and the law
- a practical guide to ethical decision making
- difficult issues: examples in practice

Stream B: Supervisory Bodies 14.00 - 15.30

14.00 EXTENDED SESSION: Ensuring Effective Outcomes: Assessments and Authorisations

Andy Butler
Principal Social Worker (Adults)
Surrey County Council

- Liberty Protection Safeguards: What the future may hold
- Implications for current Supervisory Bodies and Assessors
- Practical, Professional and Procedural Issues
- Preparing for future – Getting it right now
- The Big Issue: Accommodation moves!

15.30 *Question and answers, followed by tea & coffee at 15.40*

Joint Closing

16.00 Best Interest Assessment Practice

Chris Pearson
Director CPMCA Ltd
Best Interest Assessor/NHS Social Worker and DoLS Supervisory Body
BCUHB

- essential elements of the BIA assessor role
- quality assurance of BIA assessment and decisions
- implications of the Law Commission recommendation for authorisation: the BIA perspective

16.30 Monitoring the Deprivation of Liberty Safeguards

Rachel Griffiths
Consultant
Rachel Griffiths Consultancy Ltd

- strengthening monitoring
- monitoring against the MCA including DoLS
- what can be done better?

17.00 *Question and answers, followed by close at 17.10*

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Conference Documentation

I cannot attend the conference but would like to receive a PDF containing the conference handbook material, which includes speaker slides, at £49 each.

Streams

Stream A: Hospitals

Stream B: Supervisory Bodies

Please tick which stream you would like to attend

For more information contact Healthcare Conferences UK on **01932 429933** or email jayne@hc-uk.org.uk

Venue

De Vere West One Conference Centre, 9-10 Portland Place, London, W1B 1PR. A map of the venue will be sent with confirmation of your booking.

Date Friday 8 December 2017

Conference Fee

- £365 + VAT (£438.00) for NHS, Social care, private healthcare organisations and universities.
 £300 + VAT (£360.00) for voluntary sector / charities.
 £495 + VAT (£594.00) for commercial organisations.

The fee includes lunch, refreshments and a copy of the conference handbook. VAT at 20%.

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