

# Deprivation of Liberty Safeguards Towards Liberty Protection Safeguards

*Implications of the Law Commission Report  
& 2018 Government Response*

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Monday 24 September 2018 De Vere W1 Conference Centre, London

#### 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
- Implications for practice
- Liberty Protection Safeguards: Ensuring effective use and compliance with the recommendations in practice
- The bigger picture: Ethical issues and difficult decisions and discussions
- Case Study: DoLS at the end of life
- Ensuring effective outcomes: The Supervisory Body - Assessments and Authorisations, Principles and Process
- Best Interest Assessment Practice
- Monitoring the Deprivation of Liberty Safeguards

#### Chair and Speakers Include:

**Ulele Burnham**

*Barrister, Doughty Street Chambers  
Chair, The Discrimination Law Association*

**Tim Spencer Lane**

*Lawyer  
Law Commission for England and Wales*

#### Supporting Organisations



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## *Implications of the Law Commission Report & 2018 Government Response*

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*“Select Committees of both Houses of Parliament have criticised the Deprivation of Liberty Safeguards (DoLS) and called for the system to be reviewed. In addition, the Supreme Court’s judgment in the case of Cheshire West has led to a 10 fold increase in DoLS applications.”* Department of Health April 2018

*“This Government is committed to take action to reform mental health, and transform care for people with learning difficulties and / or autism. Taking action to reform the current DoLS regime is an important contribution towards achieving these aims and providing greater protection for some of the most vulnerable people in our society.... We have set out in detail our provisional view of each individual proposal in our response, and we broadly agree with the Liberty Protection Safeguards model.”* Final Government Response to the Law Commission’s review of Deprivation of Liberty Safeguards and Mental Capacity, March 2018

On 14th March 2018, the Government published its response to the Law Commission’s Mental Capacity and Deprivation of Liberty report. The Government “agree in principle that the current DoLS system should be replaced as a matter of pressing urgency,” and that it will legislate in due course. The Government has stated that it will “need to consider carefully the detail of these proposals carefully and ensure that the design of the new system fits with the conditions of the sector, taking into account the future direction of health and social care.”

This conference, developed and produced in association with Alex Ruck Keene Barrister, 39 Essex Chambers & Former Consultant, Mental Capacity and Deprivation of Liberty Project, The Law Commission will update delegates on the implications of the Law Commission Report, and 2018 Government response and the practicalities of moving towards Liberty Protection Safeguards in your service.

*“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 2017

The Law Commission has recommended 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.

Follow this conference on Twitter #DoLS

## 10.00 Chair's Welcome & Introduction

**Ulele Burnham** *Barrister* Doughty Street Chambers and *Chair* The Discrimination Law Association,

## 10.05 Learning from a personal perspective

**Nigel Hullah**  
*Expert by Experience*

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

## 10.30 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

## 11.00 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?

11.30 *Question and answers, followed by tea & coffee at 11.40*

## 11.50 EXTENDED SESSION: Liberty Protection Safeguards

### Ensuring effective use and compliance with the recommendations in practice

**Ulele Burnham**  
*Chair* The Discrimination Law Association,  
& *Barrister* Doughty Street Chambers

- 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

## 12.40 Implications for practice

**Lorraine Currie**  
*MCA and DoLS Manager*  
Shropshire Council

- how can we prepare for a new system?
- managing the interim
- moving forward: implications for practice

13.10 *Question and answers, followed by lunch at 13.15*

## 13.45 EXTENDED SESSION: Ensuring Effective Outcomes: Assessments and Authorisations, Principles and Process

**Andy Butler**  
*Principal Social Worker (Adults)*  
Surrey County Council

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

## 15.15 The bigger picture: Ethical issues and difficult decisions and discussions

**Christopher Fincken**  
*Independent Member*  
UK Caldicott Guardian Council (*Chairman 2012-2017*)

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

15.45 *Question and answers, followed by tea & coffee at 15.50*

## 16.00 Case Study: DoLS at the end of life

**Speaker to be advised**

- the challenges of DoLS at the end of life
- best interests decisions
- Implications of the Law Commission recommendations
- practical advice and moving forward

## 16.30 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

17.00 *Question and answers, followed by close*

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# Deprivation of Liberty Safeguards

## Monday 24th September 2018

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#### Venue

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Date Monday 24 September 2018

#### Conference Fee

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