

Moving from Deprivation of Liberty Safeguards to

# Liberty Protection Safeguards

*Implementation of the 2018 Mental Capacity (Amendment) Bill*

**Friday 14 December 2018 De Vere West One Conference Centre, London**

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#### Topics Include:

- Learning from a personal perspective
- Towards Liberty Protection Safeguards: The July 2018 Mental Capacity (Amendment) Bill
- Monitoring the Deprivation of Liberty Safeguards
- Implications for practice
- Liberty Protection Safeguards: Ensuring effective use and compliance with the new Bill in practice
- Ensuring Effective Outcomes: Assessments and Authorisations, Principles and Process
- Implications for the NHS Considering restrictions of people's liberties as part of their overall care package
- Liberty Protection Safeguards at the end of life Monitoring the Deprivation of Liberty Safeguards

#### Chair and Speakers Include:

**Ulele Burnham**

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

**Tim Spencer Lane**

*Lawyer*

Law Commission for England and Wales

#### Supporting Organisations



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*Implementation of the 2018 Mental Capacity (Amendment) Bill*

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The Mental Capacity (Amendment) Bill was introduced to the House of Lords on Tuesday 3 July and seeks to replace the current system known as 'Deprivation of Liberty Safeguards' (DoLS).

DoLS is an assessment currently carried out on people who do not have the mental capacity to make their own decisions about their care, for example because they are living with dementia. It was criticised by a 2017 Law Commission review for being too complex and bureaucratic.

The government has now developed a new system, known as 'Liberty Protection Safeguards', which will become law through the bill.

The reforms seek to:

- introduce a simpler process that involves families more and gives swifter access to assessments
- be less burdensome on people, carers, families and local authorities
- allow the NHS, rather than local authorities, to make decisions about their patients, allowing a more efficient and clearly accountable process
- consider restrictions of people's liberties as part of their overall care package
- get rid of repeat assessments and authorisations when someone moves between a care home, hospital and ambulance as part of their treatment

Department of Health July 2018

*"This new legislation, based broadly on our recommendations, will go a long way towards addressing the flaws of the current system and better protect the most vulnerable in our society."* Nicholas Paines QC Law Commissioner

*"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 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 new Bill and the implementation of the Liberty Protection Safeguards in your service. Sessions will cover; strengthening monitoring; ensuring compliance; implications for health services; liberty protection at the end of life; implications for current Supervisory Bodies and Assessors; implications for Best Interest Assessment.

Follow this conference on Twitter #DoLS

## 10.00 Chair's Welcome & Introduction

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

## 10.10 Towards Liberty Protection Safeguards: The July 2018 Mental Capacity (Amendment) Bill

**Tim Spencer Lane**

*Lawyer*

Law Commission for England and Wales

- why the system needed to change
- introducing a simpler process that involves families more and gives swifter access to assessments
- allowing the NHS, rather than local authorities, to make decisions about their patients, allowing a more efficient and clearly accountable process
- 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: implications of the Mental Capacity (Amendment) Bill
- the levels of safeguards under the proposed system

## 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 new Bill in practice

**Ulele Burnham**

*Chair*

The Discrimination Law Association

*Barrister*

Doughty Street Chambers

- practical implications of the Mental Capacity (Amendment) Bill
- ensuring compliance
- implications for current and future cases
- challenges, grey areas and difficult issues in practice
- the impact of the new Bill on number of cases and workload
- Interactive discussion and group work

## 12.40 Implications for practice

**Lorraine Currie**

*MCA and DoLS Manager*

Shropshire Council

- moving forward to the new system
- managing the interim
- implications for practice

13.10 *Question and answers, followed by lunch at 13.20*

## 13.50 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 the New Bill - recommendation for authorisation: the BIA perspective

## 14.20 Implications for the NHS Considering restrictions of people's liberties as part of their overall care package

**Mr Robert Wheeler**

*Director, Department of Clinical Law*

University of Southampton NHS Foundation Trust

- the system currently employed in Southampton, how it has functioned, and how we could in principle deal with a hospital based authorisation process assuming that eventually transpires
- Examples of clinical decisions made in the last 2 years

14.50 *Question and answers, followed by tea & coffee at 15.00*

## 15.15 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!

## 16.15 Case Study: Liberty Protection Safeguards at the end of life

**Dr Caroline Barry**

*Consultant in Palliative Medicine*

Norwich

NIHR CLAHRC Fellow

- the challenges of old and new system at the end of life
- best interests decisions
- Implications of the new Bill
- practical advice and moving forward

16.45 *Question and answers, followed by close*

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# Deprivation of Liberty Safeguards

## Friday 14 December 2018

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#### 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 14th December 2018

#### Conference Fee

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