

From Deprivation of Liberty Safeguards to

# Liberty Protection Safeguards

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

Wednesday 22 May 2019 The Studio Conference Centre, Birmingham

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## Chair and Speakers Include:

**Tim Spencer Lane**

*Lawyer*

Law Commission for England and Wales

**Baroness Finlay of Llandaff**

*Chair*

National Mental Capacity Forum

**Adrian Dunsterville**

*Regulatory Policy Manager*

*Mental Health*

Care Quality Commission

## Supporting Organisations



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

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***“The Mental Capacity (Amendment) Bill is moving towards the end of its Parliamentary journey. If and when comes into force – I understand the intention being in spring 2020 – it will sweep away the (mostly unloved) DoLS regime and replace it with the Liberty Protection Safeguards (‘LPS’)”*** Alex Ruck Keene, Barrister & Consultant, Mental Capacity and Deprivation of Liberty Project The Law Commission March 2019

***“Our bill will reform a broken system and ensure vulnerable people have quicker access to legal protections by simplifying the process and minimising duplication, without compromising essential safeguards. Any money saved through streamlining this process will be reinvested in frontline care.”*** Department of Health January 2019 (The Guardian 17 Jan 2019)

***“In its report on reforming the Deprivation of Liberty Safeguards (DoLS), the Law Commission estimated (and it was undoubtedly an underestimate) that some 53,000 people were deprived of their liberty outside hospitals and care homes in 2017. According to Court of Protection Data, the requisite steps to obtain authorisation from the Court of Protection was taken in a very small proportion of those cases, with an average of just under 200 a month being made in 2017 (ie a total of just over 2,300 for the year).”***  
Alex Ruck Keene, barrister at 39 Essex Chambers speaking to Community Care September 2018

The Mental Capacity (Amendment) Bill was introduced to the House of Lords on Tuesday 3 July 2018 and seeks to replace the ‘Deprivation of Liberty Safeguards’ (DoLS). The government has now developed a new system, known as ‘Liberty Protection Safeguards’, which will become law through the bill. The Bill had sixth sitting consideration of amendments on the 22nd January 2019.

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 2018

This conference, which will be chaired by **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.

**This conference will enable you to:**

- Network with colleagues who are working to move from DoLS to Liberty Protection Safeguards
- Reflect on national developments and understand the implications of the 2018 Mental Capacity Amendment Bill
- Improve the way you manage Deprivation of Liberty Safeguards in the interim
- Understand what the legal and practical implications of the new system will be and the preparation you will need to do
- Reflect on how you can consider restrictions of people’s liberties as part of their overall care package
- Understand how you can improve outcomes for service users
- Identify key strategies for improving process and practice with regard to assessments and authorisations
- Ensure you are up to date with the implications for your service
- Reflect on case studies from councils, health services and an end life care service
- Self assess and reflect on your own practice
- Gain cpd accreditation points contributing to professional development and revalidation evidence

## 10.00 Chair's Welcome & Introduction

**Tim Spencer Lane (AM Chair)** *Lawyer* Law Commission for England and Wales

## 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
- the levels of safeguards under the proposed system: addressing concerns regarding care home managers
- looking ahead to the new code of practice

## 10.40 The Mental Capacity Act & Liberty Protection Safeguards

**Baroness Finlay of Llandaff**  
*Chair*  
National Mental Capacity Forum

- an update from the National Mental Capacity Forum
- identifying and driving local actions to improve awareness
- making possible improved outcomes and benefits for individuals who may (or may in the future) lack mental capacity
- how do the LPS fit within the wider MCA?
- implications during the transition period

## 11.10 Monitoring & Inspection of LPS and DoLS during transition

**Adrian Dunsterville**  
*Regulatory Policy Manager – Mental Health*  
Care Quality Commission

- key issues for the transition period
- monitoring adherence: now and in the future
- the role of the Care Quality Commission

11.40 *Question and answers, followed by tea & coffee at 11.50*

## 12.05 EXTENDED SESSION: Liberty Protection Safeguards Ensuring effective use and compliance with the new Bill

**Tim Spencer Lane**  
*Lawyer*  
Law Commission for England and Wales

- amendments to the Bill: current issues
- 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

12.45 *Question and answers, followed by lunch at 12.55*

## 13.45 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

## 14.15 EXTENDED SESSION: LPS: Hearing the Voice of the Person Ensuring better outcomes for the people at the heart of LPS

**Rachel Griffiths MBE (PM Chair)**  
*Consultant, Human Rights and MCA*

- Why is this crucial for LPS?
- Mechanisms within LPS and the wider MCA to achieve person-centred practice
- What will best practice look like, for the person and their relatives?
- What can we start doing now to improve LPS outcomes?

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

## 16.00 Implications for the NHS: Liberty Protection Safeguards in the acute care setting

**Betsey Lau-Robinson**  
*Head of Safeguarding and the MCA*  
UCLH NHS Foundation Trust

- the current system, how it has functioned, and how we could in principle deal with a hospital based authorisation process
- examples of clinical decisions made in the last 2 years
- decision making for care, treatment & discharge
- The Responsible Body – new responsibilities for the acute hospitals
- implications for the NHS: how systems need to change

17.00 *Question and answers, followed by close*

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## Wednesday 22 May 2019

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The Studio Conference Centre, 7 Cannon St, Birmingham B2 5EP, UK. A map of the venue will be sent with confirmation of your booking.

**Date** Wednesday 22 May 2019**Conference Fee**

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