From Deprivation of Liberty Safeguards to Liberty Protection Safeguards

Implementation of the Mental Capacity (Amendment) Act 2019

Monday 23 September 2019  De Vere W1 Conference Centre, London

Chair and Speakers Include:
Alex Ruck Keene
Barrister & Consultant, Mental Capacity & Deprivation of Liberty
The Law Commission

Tim Spencer Lane
Lawyer
Law Commission for England and Wales

Linsey Craik, Head of Adult Safeguarding and Liberty Protection Safeguards, Mental Capacity, Deprivation of Liberty Safeguards & Safeguarding, Social Care Oversight, Care and Transformation Directorate, Department of Health and Social Care

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The Mental Capacity (Amendment) Act 2019 received Royal Assent on the 16th May 2019, this legislation will introduce a new model for authorising deprivations of liberty in care replacing DoLS with the Liberty Protection Safeguards. The new law will likely come into force in spring 2020 running alongside the DoLS for the first year.

“The Mental Capacity (Amendment) Act 2019 has now received Royal Assent and become law. The legislation provides for the repeal of the Deprivation of Liberty Safeguards (DoLS) contained in the Mental Capacity Act 2005 (MCA), and their replacement with a new scheme called the Liberty Protection Safeguards (LPS)... The government has not yet announced the date on which the legislation will come into force. But it is possible that this could take place in Spring 2020. The government has confirmed that for up to a year the DoLS system will run alongside the LPS to enable those subject to DoLS to be transferred to LPS in a managed way.”

Tim Spencer-Lane, lawyer, Law Commission, Community Care May 2019

The LPS establishes a process for authorising arrangements enabling care or treatment which give rise to a deprivation of liberty within the meaning of Article 5(1) of the European Convention on Human Rights (ECHR), where the person lacks capacity to consent to the arrangements. It also provides for safeguards to be delivered to people subject to the scheme. “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 (i.e. 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 government has now developed a new system, known as ‘Liberty Protection Safeguards’, which as now become law. 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

“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

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 Act 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 to Mental Capacity (Amendment) Act 2019
- 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

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Liberty Protection Safeguards  
Monday 23 September 2019  
De Vere West One Conference Centre London

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