



Getting Ready for the New Liberty Protection Safeguards Legal Framework in April 2022



The Mental Capacity Amendment Act comes into force on the 1st April 2022.

Mental capacity means being able to make your own decisions. This is an act which says you must:



1) Always assume that a person can make a decision, unless it is shown that they cannot.



2) Give people as much support as possible with making decisions.



3) People can make bad decisions, if they understand what they are doing



4) If someone cannot make a decision, it can be made for them in their best interests. Their views and wishes are still very important.



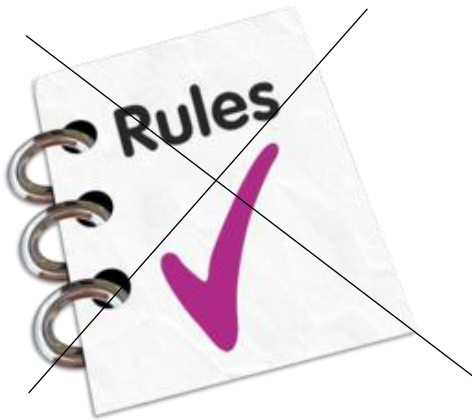
The Deprivation of Liberty Safeguards is a law for people who lack mental capacity (may not be able to make a decision for themselves) and who need extra protection or support when consenting (giving permission) to their care and treatment.



This act will be changed by something called **Liberty Protection Safeguards**



The reason The Deprivation of Liberty Safeguards is changing to Liberty Protection Safeguards is because:



The rules are out of date



It only applies in care homes and hospitals



People are deprived of their liberty in lots of other places too



What will change?



Hospitals and other NHS organisations will be responsible for deprivation of liberty, as well as Councils.



The rules will apply when people who lack mental capacity to make decisions about their care and support are deprived of their liberty



If someone lacks mental capacity (doesn't have the ability to make their own decisions) then decisions about care and support must be made in the persons best interest.



This is not just people in care homes and hospitals. This includes people in their own home.



Everyone aged 16+ will be protected by the Liberty Protection Safeguards. Information about how they work will be written in a Code of Practice (a set of rules)



These big changes will change the way that people work, when looking at whether a person is being deprived of their liberty and what to do if they are.



The Liberty Protection Safeguards introduce the following:

When deciding whether to confirm a deprivation of liberty under Liberty Protection Safeguards:



1. A 'Capacity Assessment' (this is to see whether a person can make their own decisions or if somebody may need to help them)



2. A 'Medical Assessment' to decide whether the person has a mental disorder



3. A 'Necessary and Proportionate Assessment' to decide if the care arrangements are needed to stop harm from happening to the person



Some of the things from other assessments may be used (for example under the Care Act 2014)



2. Greater involvement for families

There will be a duty to involve and work with those who are worried for the persons welfare such as family members.



There will be an opportunity for a family member or someone else close to the person, if they are willing and able, to help and support the person through the whole process. They will be called an “appropriate person”.



Family members or others close to the person will also be able to raise concerns throughout the process.



3. The Liberty protection Safeguards introduces the ‘Responsible Body’

A ‘Responsible Body’ is responsible for authorising (confirming) any deprivation of liberty.



There will be different Responsible Bodies in different settings. It could be somebody from the NHS Trust or Clinical Commissioning Group and in other cases it could be the Local Authority.



4. The Liberty Protection Safeguards introduce the Approved Mental Capacity Professional (AMCP)

If the person doesn't agree to their care and support. The case must be looked at by an **Approved Mental Capacity Professional (AMCP)**.

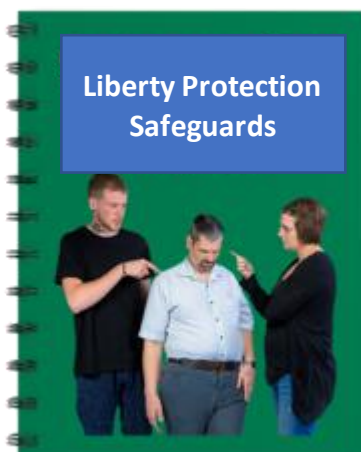


This provides extra protection.

The Responsible Body may also decide to take other cases to an Approved Mental Capacity Professional (AMCP). The AMCP can look at and consider those cases too.



The AMCP will review the information which the Responsible Body is using, meet with the person if necessary and speak to the other people involved.



5. Liberty Protection Safeguards apply in lots of settings

The Liberty Protection Safeguards will apply to individuals who are in hospital, or living in care homes and other settings, who need to be deprived of their liberty. Domestic settings include:



- the person's own home and family home



- shared living



- supported living



This change means that all individuals who need to be deprived of their liberty will be protected under the Liberty Protection Safeguards, no matter where they live, without the need to go to court.



What is Devon County Council Adult Social Care doing in preparation?

We have a project group led by Sandra Geary (Deprivation of Liberty Safeguards/Liberty Protection Safeguards Service Manager) where we are looking at:



- What this means for the person themselves, staff, providers, services.



- Arranging Liberty Protection Safeguards across Adult Social Care



- The changes that are needed to meet our new statutory duties



- Better outcomes for people who are being deprived of their liberty



If you are interested and want further reading at this point, here is a link to the Department of Health's LPS factsheet, which explains in more detail about the LPS [here](#).



We also will try to give regular updates to refresh this information and update you on the code of practice and the training Devon County Council will be offering.

For more information and updates please find the link our Devon County Council Website:

[The Mental Capacity Act Deprivation of Liberty safeguards | Devon County Council](#)