



Getting Ready for the New Liberty Protection Safeguards Legal Framework



The Mental Capacity Amendment Act has been delayed so the date the act will come into place, has not been confirmed yet.

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



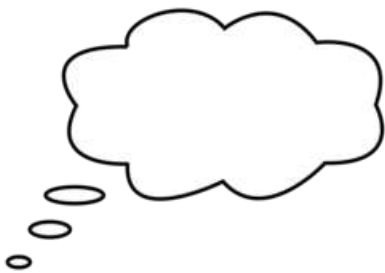
1) Always assume that a person can make a decision, unless it is shown that they cannot.



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



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 with their best interests. Their views and wishes are still very important.



The **Deprivation of Liberty Safeguards** is an act for people who lack capacity (may not be able to make a decision for themselves) and may need extra protection or support when consenting to their care or 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The rules are out of date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 to everyone who is **deprived of their liberty** (had their freedom away)



If someone lacks mental capacity (doesn't have the ability to make their own decisions) they may be assessed with their 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 safeguards. Information about how the Liberty Protection Safeguards 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 choices or if a trained professional may need to help them with their decisions)



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



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



The assessment process will be put into a care plan that already exists (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 as an “appropriate person”.



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



3. The LPS introduces the ‘Responsible Body’

A ‘Responsible Body’ is responsible for authorizing (confirming) any deprivation of liberty in certain settings.



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



4. The LPS introduces the Approved Mental Capacity Professional (AMCP)

This is where the person refuses to their care and treatment. 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 appropriate, and complete consultation if acceptable.



5. The LPS applies in lots of settings

The Liberty Protection Safeguards will apply to individuals living temporarily in hospital, 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.



- Allowing Liberty Protection Safeguards implementation (process of passing legislation) across Adult Social Care



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



- and overall better outcomes for people.



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](#)