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

The Mental Capacity Amendment Act comes into force on the 1<sup>st</sup> April 2022 and with that the **Deprivation of Liberty Safeguards (DOLS)** will be replaced by the **Liberty Protection Safeguards (LPS)**

These significant changes will impact on the way we all work, when considering whether a person is experiencing a deprivation of their liberty and how this will be authorised.

## What are the Liberty Protection Safeguards?

- The Liberty Protection Safeguards will provide protection for people aged 16 or over, who lack mental capacity to consent to their care and treatment and are deprived of their liberty
- The LPS will apply to individuals experiencing a mental disorder which include but are not limited to; dementia type illnesses, autism, a learning disability or an acquired brain injury.
- The Liberty Protection Safeguards have been designed to put the rights and wishes of the individual concerned at the centre of all decision-making.

## The Liberty Protection Safeguards introduce the following;

### 1. The assessments needed to authorise a deprivation of liberty under LPS are:

1. a capacity assessment
2. a 'medical assessment' to determine whether the person has a mental disorder
3. a 'necessary and proportionate' assessment to determine if the arrangements are necessary to prevent harm to the person and proportionate to the likelihood and seriousness of that harm

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The assessment process will be embedded into existing care planning (for example under the Care Act 2014) and it will be easier to use existing valid assessments, where reasonable and appropriate.

## **2. Greater involvement for families**

There will be an explicit duty to consult those caring for the person and with those interested in the person's welfare.

There will be an opportunity for a family member or someone else close to the person, if they are willing and able, to represent and support the person through the process as an "appropriate person".

Family members or others close to the person will also be able to raise concerns throughout the process and in response to any authorisation.

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

Where the person objects to their care and treatment at the specified place, (or the care is provided in an independent hospital), the case must be considered by an **Approved Mental Capacity Professional (AMCP)**.

This provides an additional protection.

The Responsible Body may also refer other cases to the AMCP. The AMCP can accept those referrals and consider those cases too.

The AMCP will review the information on which the Responsible Body relies, meet with the person if appropriate and practicable, and complete consultation if appropriate and practicable.

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## 5. The LPS applies in variety of settings the scheme to domestic settings

The Liberty Protection Safeguards will apply to individuals residing in hospital care homes and domestic settings who need to be deprived of their liberty. Domestic settings include:

- the person's own home and family home
- shared lives
- supported living

This change ensures that all individuals who need to be deprived of their liberty will be protected under the Liberty Protection Safeguards, regardless of where they reside, 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 (DoLS/LPS Service Manager) where we are looking at;

- What this means for the person themselves, staff, providers, services.
- Enabling LPS implementation across Adult Social Care
- The changes that are needed to meet our new statutory duties
- What functions the central LPS Coordination Service will provide
- and ultimately 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 aim to provide regular updates to refresh this information and update you on the code of practice and the training package DCC will be offering.

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For further information and updates please find the link our Devon County Council Website:  
[The Mental Capacity Act Deprivation of Liberty safeguards | Devon County Council](#)