

# 01

## Background

The Deprivation of Liberty Safeguards (DoLS) were introduced in 2009, following the decision of the European Court of Human Rights in HL v United Kingdom. They enable adults to be deprived of their liberty in hospitals and care homes when the person lacks the relevant capacity. However, the DoLS have been heavily criticised since their inception. In 2014 a House of Lords select Committee concluded that DoLS legislation was 'not fit for purpose'. This was swiftly followed by a decision of the Supreme Court, (known as Cheshire West). In 2015 the Law Commission was asked to review DoLS legislation. After public consultation, a final report was issued in March 2017, and set out a new scheme called Liberty Protection Safeguards. The Mental Capacity (Amendment) Bill received Royal Assent on 16 May 2019.

# 02

## Who

Those aged 16 and over + mental disorder + lacks mental capacity + they are deprived of their liberty as defined by current case law such as Cheshire West (the acid test).

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## Who can carry out key tasks

- 1.Capacity/necessity and proportionality assessment/determination:
  - (1) medical practitioner; (2) nurse;
  - (3) occupational therapist; (4) social worker;
  - (5) psychologist; (6) speech and language therapist.
2. Medical assessment: registered medical practitioner or registered psychologist.
3. Approved Mental Capacity Professional:
  - (1) nurse; (2) social worker;
  - (3) psychologist; (4) speech and language therapist;
  - (5) occupational therapist

## Assessments/Key tasks

- Age
- Mental Capacity
- Mental Disorder
- Deprivation of liberty
- Necessary and Proportionate
- Consultation
- Excluded arrangements (Mental Health Act)
- Is the person objecting (AMCP required)
- Is there an Appropriate Person? (If not, need IMCA)

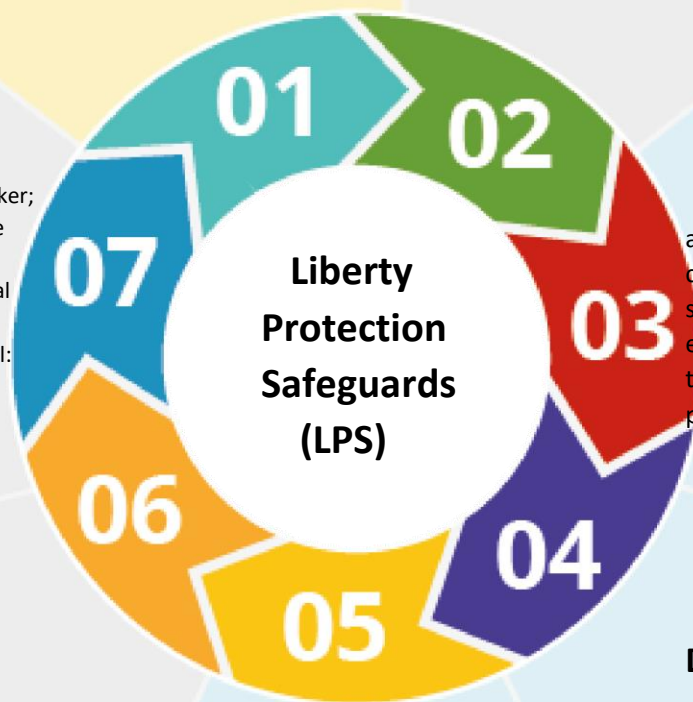
# 03

## Where

anywhere in England and Wales. This could include hospitals, care homes, supported living, residential schools, extra care provision, shared lives, transport and domestic settings i.e. a person's own home.

## Duration

up to one year initially, renewed for a up to a further year and then renewals of up to three years.



**Liberty Protection Safeguards (LPS)**

## Changes:

- Age:** 16+
- Care Environments:** this is being extended from just hospitals and care Homes to anywhere, including supported accommodation and own home.
- Transport:** the arrangements to convey the cared for person are included.
- Responsible body:** LA, CCGs, NHS Trusts

# 06

Contact Enfield's LPS team:

[lps@enfield.gov.uk](mailto:lps@enfield.gov.uk)

0203 855 6299



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