

The Mental Capacity (Amendment) Act 2019 received the Royal Assent on 16th May 2019. The purpose of the Act is to abolish the Deprivation of Liberty Safeguards (DoLS) and to replace them with a completely new system, the Liberty Protection Safeguards (LPS). This system will apply to England and Wales only.



## The 7 main points of the LPS are:

**One scheme** will apply in all settings (e.g. care homes, nursing homes, hospitals, supported living, people's own homes, day services, sheltered housing, extra care, Shared Lives etc).

**The LPS** will apply to anyone aged 16+

There will be no statutory definition of "deprivation of liberty" under **LPS**

the current 'acid test' remains as what we should be using to figure out if there is a deprivation occurring

The role of "**Supervisory Body**", which authorises deprivations of liberty, will be abolished. It will be replaced by the "**Responsible Body**".

There will be different Responsible Bodies in different settings.

For some cases the Responsible Body will be the NHS Trust; in other cases the role will be filled by the Clinical Commissioning Group (or Local Health Board in Wales); and in other cases still it will be the local authority.

**There will only be 3 assessments:**

the "**Capacity**" assessment,

the "**Medical**" assessment

the "**Necessary and Proportionate**" assessment.

In certain circumstances the '**Responsible Body**' may ask a care home manager to organise the assessments.

### Roles:

There will be a brand new role of Approved Mental Capacity Professional to deal with more complex cases. There will be an expansion of the role of the Independent Mental Capacity Advocate. NB: current BIAs will have the opportunity to become AMCPs

