

Liberty Protection Safeguards (LPS) – overview



The Liberty Protection Safeguards will replace DoLS. They are currently being debated in Parliament and there will be some changes to the details given below but many of the key elements (who, where, responsible body etc) will remain the same. Others may be strengthened such as the limited right to advocacy currently proposed.

Information and resources on LPS are available at: www.edgetraining.org.uk/news. For updates on the progress of LPS join our mailing list. A detailed training day on LPS can be booked at: www.edgetraining.org.uk

Who: 18 and over +
unsound mind + lacks mental capacity

Where: anywhere in England and Wales.

This could will include: hospitals, care homes, supported living, extra care provision and domestic settings ie a person's own home.

Duration: up to one year initially, renewed for a further year and then renewals of up to three years. Renewals may be paper based without the person being seen by the responsible body.

Assessors:

If the person is in a care home the assessment process is carried out by the care home manager/other staff in the care home. In all other settings it can be any member of staff from the responsible body.

Rights for the person detained:

- 1. Appeal to the Court of Protection**
The person under LPS, their appropriate person or their advocate (some people may not have either) can appeal. The responsible body will have to attend court and present reports etc.
- 2. Appropriate Person**
Some people may have an appropriate person (not involved in providing care or treatment) appointed for them. Their role is to support and represent the person.
- 3. Advocate (IMCA)**
Some people may have an advocate appointed for them. The responsible body or care home manager will decide.
- 4. Review**
A review of the person's case to check the legal criteria is still met. This will be undertaken by the responsible body or the care home manager/staff.

Responsible Body:

NHS Trust, CCG, Welsh Health Board or local authority.

If an NHS Trust, CCG or Welsh Health Board are providing or commissioning care they will be the responsible body. Local authorities will be responsible in all other cases.

The responsible body organises and completes the LPS assessments* + undertakes the pre-authorisation review + authorises the LPS + monitors it + renews it + attends the Court of Protection for appeals.

* in care homes, the registered care home manager will be responsible for the assessments and reviews.

Procedure:

- 1. Assessment**
Any member of staff from the responsible body (or care home manager/staff) who complete the assessments listed below.
- 2. Pre-authorisation review**
Any member of staff from the responsible body not involved in the care or treatment of the person concerned. They do not meet the person but read the completed assessments below and decide if the criteria for LPS are met. If the person is objecting, an AMCP will undertake the review and should meet the person.
- 3. Authorisation**
The responsible body authorises the LPS. No specific process is required for this.

Assessments (legal criteria):

1. The person is aged at least 18 years old
2. The person lacks mental capacity to consent to (the objective) deprivation of liberty
3. The person has unsound mind
4. The restrictions are a deprivation of liberty
5. The restrictions are necessary and proportionate
6. Those interested in the person's welfare have been consulted
7. The Mental Health Act could or should be applied instead
8. The person is/is not objecting to living in that place or to the care or treatment
9. An appropriate person or advocate should be appointed

Note: these must all be recorded, and evidence provided for the responsible body to carry out its pre-authorisation review.