Deprivation of Liberty: DoLS and the LPS
What’s your starting point?
Aims of the Workshop

To understand;

1. The role of frontline practitioners and CCG’s in the current DoLS framework;
2. The key changes being proposed by the Liberty Protection Safeguards;
3. What the likely implications are going to be for frontline practitioners and organisations.

To think about;

1. The things that you can do now to reduce the negative impact of any changes before they happen.
Deprivation of Liberty: DoLS and the LPS
Deprivation of Liberty: DoLS and the LPS
Recognising a Deprivation of Liberty

Deprivation of Liberty Factors

1. Aged 18 or over; and
2. Is detained (or will be detained) in a care home or hospital; and
3. The detention is for the purpose of receiving care or treatment; and
4. Lacks capacity to consent to accommodation, care or treatment.

Detention (factor 2)

- Is subject to continuous supervision and control; and
- Is not free to leave (regardless of an attempt to do so); and
- The care or treatment is imputable to the state.
The current role

1. Recognising a Deprivation
2. Explore ways to remove the deprivation
3. Ask the managing authority to make the request for a standard authorisation
4. If the managing authority decline, make a request for the deprivation to be considered
Deprivation of Liberty: DoLS and the LPS
Option 1

The Registered Manager of the Care Home?

Option 2

The Community Nurse managing the Care Plan?

Option 3

The manager of the hospital where Anita will have her surgery?
Deprivations of liberty do not require authorisation when;

a) Treatment is ‘life saving’; and
b) Treatment cannot be delayed to allow the deprivation to be authorised; and
c) The treatment is necessary to avert a real risk to life; and
d) The treatment is to be carried out only as necessary to avert the real risk to life.
Deprivation of Liberty: DoLS and the LPS
Liberty Protection Safeguards

‘The government recognises that it [the current Deprivation of Liberty System] is increasingly unsustainable’

‘We welcome the Law Commission report and the detailed recommendations to establish a new system of Liberty Protection Safeguards’

‘We are carefully considering your report and plan to engage with stakeholders to understand how these changes can be implemented’
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<tr>
<th><strong>DoLS</strong></th>
<th><strong>LPS</strong></th>
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<tr>
<td>Applies from the age of 18</td>
<td>Applies from the age of 16</td>
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<tr>
<td>Authorised by the Local Authority</td>
<td>Authorised by the Local Authority or the CCG depending on setting</td>
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<tr>
<td>Authorisation requests made by the managing authority of the care home or hospital</td>
<td>Authorisation requests made by practitioner arranging the care or treatment (unless self funding or receiving private medical care)</td>
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<td>Best Interests Assessors (BIA’s) (primarily based within Local Authority DoLS teams) involved in all authorisations</td>
<td>BIA’s replaced by AMCP’s within the Local Authority and the CCG. AMCP’s only involved in disputed, complex or serious deprivations. Non-complex deprivations can be authorised based on the recommendation of the practitioner arranging care or treatment</td>
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<td>Non-transferable between settings</td>
<td>Can be transferred across settings</td>
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<td>Allows for deprivations to be authorised after a person has started to receive care or treatment</td>
<td>Expectation is that all deprivations will be authorised before they happen (unless ‘truly’ urgent). Exploring deprivations is to become part of everyday care planning activity</td>
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Deprivation of Liberty: DoLS and the LPS
The future role (care homes)

1. Recognising a Deprivation (during care planning)
2. Exploring ways to avoid the deprivation
3. Request the Local Authority authorise the deprivation
4. Arrange care after the deprivation has been authorised
The future role (hospitals)

- Recognising a Deprivation (when planning treatment)
- Exploring ways to avoid the deprivation
- Request the Local CCG authorise the deprivation
- Arrange treatment after the deprivation has been authorised

*(Unless there is already an authorisation in place that is now transferrable)*
Responding to a request

Independent review of evidence provided by practitioner

Is the deprivation disputed, complex or serious?

Authorise the deprivation

Y

Advising requesting practitioner

Do not authorise the deprivation

Appoint an AMCP to carry out further assessment

AMCP recommendation to authorise?

Y

Authorise the deprivation

N

Advise requesting practitioner

N
## Future proofing

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<tr>
<td><strong>1</strong></td>
<td>Do practitioners responsible for arranging care or treatment understand how to recognise a deprivation of liberty?</td>
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<td><strong>2</strong></td>
<td>Do they understand the Mental Capacity Act and the principle of Best Interests?</td>
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<td><strong>3</strong></td>
<td>What structures need to be developed to support any new framework, and how can their independence from those services involved in commissioning or arranging the care or treatment be ensured?</td>
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<td><strong>4</strong></td>
<td>What are the opportunities for integrated working with the Local Authority?</td>
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<td><strong>5</strong></td>
<td>How many professionals will need to be trained as AMCP’s and in which locations?</td>
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<td><strong>6</strong></td>
<td>What might the impact be locally, taking into account the number of authorisation requests made to Local Authorities’ now?</td>
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<td><strong>7</strong></td>
<td>How can any negative impact on resources be minimised?</td>
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Resources
And
Questions