



Department
of Health &
Social Care

Transition from the Deprivation of Liberty Safeguards to the Liberty Protection Safeguards

Annex to the LPS Training Framework (England)

March 2022

Contents

Introduction3

Learning Outcomes Relating to the Transition from DoLS to LPS4

Introduction

The [LPS Training Framework](#) has been developed for use in England and supports workforce development specific to the implementation of the Liberty Protection Safeguards (LPS). The aim of the framework is to support the development and delivery of appropriate and consistent education and training to support the implementation and operation of the LPS. This document is a separate annex to the LPS training framework and is anticipated to have a time-limited life, to support the period of transition from the Deprivation of Liberty Safeguards (DoLS) to LPS. It is specifically aimed at people who have experience of the DoLS scheme and are familiar with how it works. It is understood that there may be a need to “un-learn” some DoLS approaches, in order to apply LPS approaches. This document should be read in conjunction with the LPS Training Framework.

Learning outcomes relating to the transition from DoLS to LPS

Ref No:	Group A - Awareness Raising Learning Outcomes
	The learner will:
TA1	Understand that the aims and intentions of the LPS scheme are the same as the DoLS scheme in human rights terms, with the same focus on protecting article 5 rights relating to liberty.
TA2	Be aware that whilst DoLS only applied in care homes and hospitals, under the LPS, deprivations of liberty in all settings including "domestic" settings and transport can be authorised under the LPS. Prior to the LPS, in any other setting a deprivation of liberty had to be authorised by the Court of Protection.
TA3	Be aware that unlike DoLS an authorisation under the LPS can include more than one setting.
TA4	Be aware that once the LPS scheme starts, there will be no more new authorisations made under DoLS scheme.
TA5	Be aware DoLS applied for people aged 18 and above, but LPS includes 16- and 17-year olds.
TA6	Be aware that both DoLS and LPS are part of the wider Mental Capacity Act and that the five key principles of the MCA remain crucial for all aged 16 and above in care and treatment decision making and care and treatment planning more generally.
TA7	Recognise that an authorisation under DoLS or LPS does not mean you must deprive a person of liberty, only that you can deprive the person if necessary and proportionate.
TA8	Be aware that the "Acid Test" is still key in part to the definition of a Deprivation of Liberty (that is, that a person is under continuous supervision and control and is not free to leave).
TA9	Be aware that in the DoLS scheme there was only one Supervisory Body but in the LPS scheme the role of Responsible Body will be undertaken by a wider range of organisations which includes CCGs (or their successor integrated care systems) and NHS Trusts as well as local authorities.
TA10	Be aware that Care Quality Commission (CQC) and Ofsted will both be Monitoring Bodies for the LPS scheme.

Ref No:	Group A - Awareness Raising Learning Outcomes
TA11	Understand that during the first year of the LPS scheme there will also be DoLS and Court of Protection authorisations of deprivations of liberty in place from the previous year. Any reviews can take place as part of the existing authorisation. When these authorisations cease, if further authorisation is required, this will need to be authorised under LPS.
TA12	Know that there will be no "urgent authorisations" under LPS, as there are under DoLS, but that, instead, there is an ability to take steps necessary for life sustaining treatment or to carry out essential acts, while waiting for an authorisation to be granted, or in an emergency.
TA13	Be aware that there is no Relevant Person's Representative (RPR) role in the LPS. It will be replaced by the appropriate person role (unpaid) or the continued involvement of an IMCA, who would have also been involved in the authorisation process, in most cases. Also understand that an IMCA may also support the Appropriate Person.

Ref No:	Group B - Identification and Referral Learning Outcomes
	Learning outcomes for Competency Group A, plus the learner will:
TB1	Understand that under LPS, deprivations of liberty will be authorised by an NHS Trust (for NHS Hospitals), a CCG (for Continuing Healthcare arrangements) or a Local Authority (for all other situations, including "out of hospital" health services and independent hospitals).
TB2	Understand that whilst DoLS has urgent authorisations, LPS does not, but if steps become necessary for life-sustaining treatment or for a vital act, either whilst awaiting an authorisation decision from the Responsible Body or in an emergency, these steps may be covered by section 4B of the Mental Capacity Act.
TB3	Understand that the LPS retains the DoLS emphasis that any arrangements must be necessary to prevent harm to the person at the centre, rather than to prevent harm to any other people (noting that risk of harm to others can also lead to a risk of harm to the person).

Ref No:	Group C - Assessment, Determination and Consultation Learning Outcomes
	Learning outcomes for Competency Group B, plus the learner will:
TC1	Recognise that under LPS, it is likely that the registered professional (e.g. a social worker, care co-ordinator, nurse or therapist) allocated to the case will carry out and record some assessments during needs assessment and care or treatment planning, where relevant.
TC2	Be able to describe a summary of the LPS process including the conditions required for LPS authorisation and how these differ from DoLS.
TC3	Be able to consider how the Code of Practice explains relevant case law that will apply under LPS, for both adults and young people.
TC4	Be aware of the differences between DoLS and LPS in relation to authorisation periods, and that under LPS, the first authorisation period can be up to a year, the first renewal period can be up to a year and then second and subsequent renewal periods can be for up to three years for people who are settled in the authorised arrangements and whose condition is unlikely to change during the authorisation period.
TC5	Understand that under Dols, although reviews do take place, there was no expectation of a programme of scheduled reviews, whereas under LPS, it is required that a schedule of reviews will be identified in the authorisation record.
TC6	Understand the difference between the DoLS Best Interests assessment and the LPS Necessary and Proportionate assessment and when Best Interests decisions will be required in future, in the context of LPS.
TC8	Understand that the role of the medical assessor under LPS is to assess the person to determine whether or not they have a mental disorder. LPS regulations govern who may carry out the medical assessment and the determination of a mental disorder and include any doctor or clinical psychologist (in order to satisfy European case law requirements). Under DoLS the requirements were more onerous and could only be done by a doctor with significant mental health expertise and specific extra DoLS training.
TC9	Understand that whilst under DoLS, CQC monitored the operation of DoLS and reported on this annually. Under the LPS, both CQC and Ofsted will be the monitoring bodies.
TC10	Under DoLS, the Court of Protection sometimes authorised a deprivation of liberty in a care home or hospital and always in other settings. Be aware that where a deprivation of liberty arises as part of a wider question being considered by the Court of Protection (such as a change of accommodation or serious medical treatment question), the authorisation of a deprivation of

Ref No:	Group C - Assessment, Determination and Consultation Learning Outcomes
	liberty will normally be passed by the Court of Protection to the Responsible Body for authorisation. This is different from the previous approach, when the Court would normally have authorised the deprivation of liberty as part of its decision-making.
TC12	Be able to describe the difference between DoLS Relevant Person's Representative role and LPS Appropriate Person role, including that the Appropriate Person needs to be identified ASAP and not once an authorisation has been given as in DOLS.

Ref No:	Group D - Pre-Authorisation and Authorisation Learning Outcomes
	Learning outcomes for Competency Group C, plus the learner will:
TD1	Understand that whilst with DoLS the authorisation follows once the assessments are complete, with LPS there will be a pre-authorisation review prior to authorisation, and that the Responsible Body can only authorise if the pre-authorisation review has given the appropriate determination.

Ref No:	Group E – IMCA Learning Outcomes
	Learning outcomes for Competency Group B, plus the learner will:
TE1	Understand that under the LPS, continuity of advocate is possible as it was under DoLS. if an IMCA is involved during the LPS process, the IMCA role should normally continue after authorisation, enabling a longer-term relationship with the person supported.
TE2	Understand that whilst the context is changed, generally speaking the IMCA role is not.

Ref No:	Group F – AMCP Learning Outcomes
	Learning outcomes for Competency Group D, plus the learner will:
TF1	Be able to describe the difference in role and tasks between AMCPs and BIA's, and that whilst the AMCP is a specialist role in the LPS scheme, requiring expert knowledge and practice experience, it is not the same as the BIA role in the DoLS scheme.
TF2	Understand that the BIA role is very focused on assessments, but that an AMCP is not likely to undertake assessments, although may review them. It is more to do with quality assuring other people's assessments and determinations, and resolving conflict and differences of opinion. This will involve more oversight, assurance, scrutiny, challenge and negotiation, and must be operationally independent of those undertaking assessment and determination of the authorisation conditions.
TF3	Understand that not all knowledgeable and experienced BIAs will convert to AMCP. Some may choose to continue to undertake assessments and determinations.

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