

Liberty Protection Safeguards

**What the law says about
care or treatment if it
takes away people's rights**



Easy read booklet

What this booklet tells you about



Some people need help to make decisions about their lives because they **lack capacity**.



Lack capacity means they might not be able to make a decision about their life at the time when the decision needs to be made.



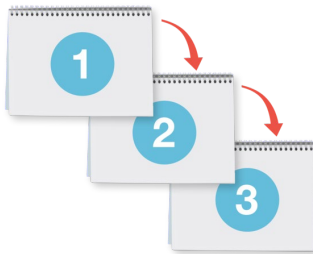
The Mental Capacity Act 2005 is a **law** in the UK. It says what happens when people lack capacity.



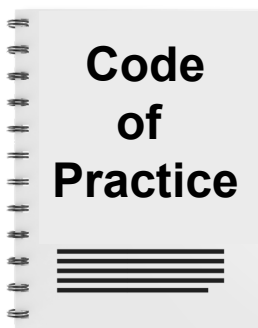
A **law** is a rule that protects people and makes sure everyone is treated in a good and fair way. The Mental Capacity Act 2005 is called the **Act** for short in this booklet.



When care or treatment needs to be given to a person who lacks capacity, sometimes they will lose some of their freedom.



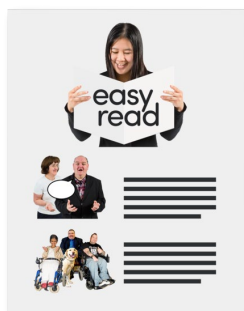
When this happens there is a system in England and Wales that the Act says must be followed. It is called the **Liberty Protection Safeguards** or **LPS** for short.



The Act says a **Code of Practice** must be written.



A **Code of Practice** is a book that has helpful information about a law. It is a **guide** which means it should be read and followed but it is not a law.



This booklet is an Easy Read **summary** of the Code of Practice for LPS. A **summary** means a shorter version.

Deprivation of liberty



Rights and freedoms are the basic human rights every person should have for their whole life, like fairness and being able to choose to do the things they want.



A **deprivation of liberty** is when someone loses some of their rights and freedoms.



A deprivation of liberty happens when

- someone is not able to leave the place they are in.
- someone is not able to choose how to spend their time and is not left alone for long parts of the day.
- the person has not given **consent** to be kept in that place. **Consent** is when you officially agree to do something.
- the government or the legal system in the country has put them in that place.



The LPS process



The LPS process must be followed if

- someone needs care or treatment, and
- they lack capacity, and
- the care or treatment plan may mean a deprivation of liberty.



The Act protects people who lack capacity. Everyone has a right to

- have someone who can help them through the LPS process.
- fair assessments.

Assessments are checks to find out about their needs.

- ask a **Court** to help make a decision if they are not treated fairly. A **Court** is an official place where decisions can be made for people who lack capacity.
- have LPS decisions checked to make sure they are still needed.



If an organisation thinks that a deprivation of liberty is needed, it will start the LPS process. This organisation is called a **Responsible Body**.



The Responsible Body must

- check the LPS process is needed.
- check they are the right organisation to be the Responsible Body.
- choose someone who will help and speak for the person who lacks capacity. This person will be the **Appropriate Person** or **Independent Mental Capacity Advocate** (called **IMCA** for short).

The Responsible Body must follow the LPS process. The LPS process includes

- **Assessments** for capacity, health needs and fair choices.
- **Talking** to everyone involved.
- **Deciding** if the deprivation of liberty can happen.
- **Checking** if the deprivation of liberty is still needed. How often this happens will be different for each person.
- **Renewing** the LPS if it's still needed. **Renewing** means making it last longer.

The Responsible Body



The Responsible Body must decide if certain **arrangements** should happen. These **arrangements** are the part of a person's care and treatment that create the deprivation of liberty.



The Act says which organisation will be the Responsible Body. It depends on things like where the deprivation of liberty arrangements will happen.



The Responsible Body must

- always try to stop a deprivation of liberty by finding a better plan.
- make sure the assessments happen.
- decide if the arrangements should or shouldn't happen.
- decide when the arrangements should end or when they should last longer.
- give out certain information about the LPS.



Helping people make their own decisions



The Act says people must be given the chance to make their own decisions if they can.



To help someone make their own decision the Act says people must check if

- they have all the information.
- they have information about any other choices.
- anyone else like their family could help them understand.
- the information could be given in a different way like in pictures.
- they would be more comfortable in a different place or at a different time.
- you could wait until a later time when it might be easier.



There are lots of decisions to make in the LPS process. People should help the person be a part in all of them as far as possible.

The Appropriate Person



The Appropriate Person will help and speak for the person who lacks capacity. They are often a carer, a friend, or someone in the family.

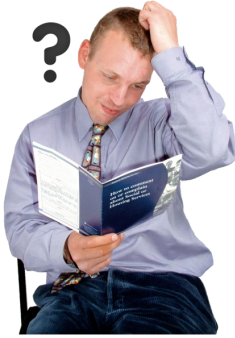


The Appropriate Person should

- know the person well.
- know how to talk to them in a clear way.
- be 16 years old or more.
- be able to keep in touch with the person.
- not have any connection to the money paid for care or treatment.
- not work for any company or organisation that will give the care or treatment.
- not work for the organisation that is the Responsible Body.
- agree to be the Appropriate Person.

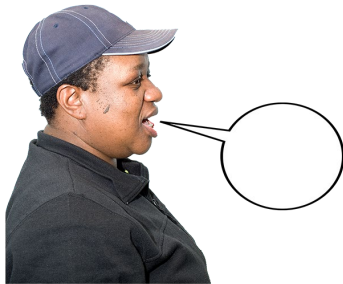


If there isn't anyone who can be the Appropriate Person, an IMCA may be chosen instead.



The Appropriate Person needs to

- understand the LPS process.
- make sure the person who lacks capacity is at the centre of the process.
- speak up for the person.
- help them through the process.
- make sure they are included whenever possible.
- understand their rights.
- know what they want and say if they change their mind.



There will be lots of meetings. The Appropriate Person should help and speak up for the person who lacks capacity at the meetings.



The Appropriate Person should get

- any help they need from the Responsible Body.
- information about the LPS process.
- all new information about the **case**. The **case** means the LPS process for this person.



The Independent Mental Capacity Advocate or IMCA



If there is no Appropriate Person to help and speak for the person who lacks capacity, an IMCA may be chosen instead.



Sometimes an IMCA is chosen to help an Appropriate Person.



The job of the IMCA Is to

- make sure the person is treated in the right way.
- make sure everyone understands what the person wants and how they feel.



The IMCA must have the right training and experience needed by law.

The IMCA must



- help and speak for people who have no-one else to help them.
- find the best way to talk to the person.



- help an Appropriate Person if they are asked to.



- have all the information about the arrangements and the process.
- get to know the person and their care or treatment arrangements.



- help the person make their own decisions if they can.
- give information to the people doing the assessments.



- always be asked about what the person wants and how they feel.
- ask the Court to decide, or go to the Court.

Assessments and determinations

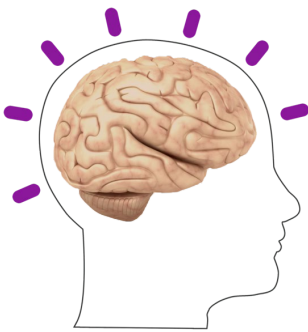


There will be 3 separate assessments and **determinations** to decide if the deprivation of liberty arrangements can happen. **Determinations** means decisions.



1. Capacity

This assessment will find out if the person lacks capacity to agree to the arrangements.



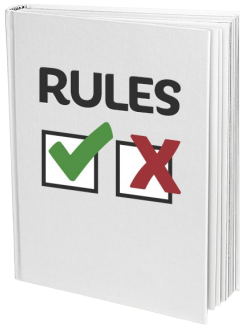
2. Medical

This assessment will find out if the person has a **mental disorder**. A **mental disorder** is any problem or disability of the mind that affects how you think and behave.



3. Fair choices

This assessment will find out if the arrangements are needed to keep the person safe, are fair, and are the best choice for their life.



There are rules about who can do each of the assessments.



The people who do the assessments will usually make the determination for each assessment.



If the determinations for all 3 assessments meet the rules, the Responsible Body can make the final decision if the arrangements can happen.



Sometimes similar assessments have already been done for other reasons. It might be possible to use these assessments for LPS so they don't have to be done again.



If anything changes, the Responsible Body must do some checks or new assessments.

Talking to everyone involved



The person who lacks capacity should be at the centre of the LPS process.



To find out what they want and how they feel, the Responsible Body must talk to

- the person.
- anyone the person wants them to talk to.
- anyone who cares for the person or who is interested in their wellbeing.
- someone who is a **Lasting Power of Attorney** or **Enduring Power of Attorney** for the person. These are legal roles to let someone else make decisions about the person's life.
- **deputies. Deputies** are people chosen by the Court to make decisions for people who lack capacity.
- the Appropriate Person.
- the IMCA.





The Responsible Body should think about the best way to talk to the person to make sure they can find out what they want and how they feel.



All meetings with the person will be recorded or notes written down.



This will help the Responsible Body think more about what the person wants and how the person feels when they are making their decision.

Approved Mental Capacity Professionals or AMCPs



Sometimes the Responsible Body will ask **AMCPs** to help with their decisions. **AMCPs** or **Approved Mental Capacity Professionals** are people from professional jobs who understand Mental Capacity.



AMCPs might be nurses or social workers. They have special training and are put on a list of AMCPs.



The AMCPs will usually meet the person and talk to everyone involved. They will make a decision about whether the rules have been met for the deprivation of liberty.



If the person who lacks capacity is in a place they don't want to be in, the AMCPs will decide whether the rules have been met for the deprivation of liberty.

Renewals



When the end date for the arrangements is getting close, the Responsible Body must think about what should happen next.



If there have been no changes and the arrangements are working well, they can be renewed. This means they will last longer.



It might be possible to change the arrangements and renew them. Sometimes new assessments will be needed.



The first renewal can be for 1 year. After that any more renewals can be for 3 years.

Life-Sustaining Treatment or Vital Acts



Sometimes a decision about a deprivation of liberty needs to happen very quickly. Part of the Act called **section 4B** lets people make decisions about **life-sustaining treatment** or **vital acts**.



Life-sustaining treatment means any medical treatment that is needed to keep someone alive.



Vital acts means anything that needs to be done to stop someone's health getting much worse or to keep the person safe. It must be fair and the best choice.



Section 4B can only be used for life-sustaining treatment or vital acts if the person lacks capacity. It can be used in emergencies or if a Court or Responsible Body are already thinking about arrangements for the person.

Children and young people



In this booklet children means people who are under 16 years old, and young people means people who are 16 or 17 years old.



The LPS process and the Act can be used for young people.



To work out if a young person has a deprivation of liberty you can compare them with someone else who is the same age who does not have a mental disorder.



If a young person has an Education, Health and Care Plan or an Individual Development Plan, or is a looked after child, the organisation that wrote that plan will be the Responsible Body. A parent can sometimes be the Appropriate Person.

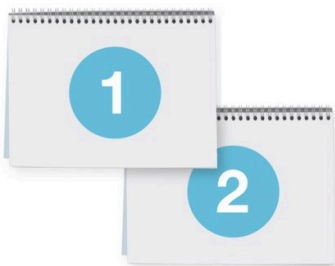
The Mental Health Act 1983



In this booklet we have talked about the **Act** which is the Mental Capacity Act 2005. It is a law in England and Wales that says what happens when people lack capacity. The LPS process is part of this Act.



There is another law in England and Wales called the Mental Health Act 1983 or the **MHA**. This law says what happens to people with mental health problems and when they can be kept in a place where they don't want to be.



There is an overlap between these laws. This means there will be times when both laws need to be used.



It is important for someone who knows about the law to check which laws can be used.

If you disagree with the arrangements



Sometimes people will be worried about the deprivation of liberty arrangements. You can always speak out about your worries in the LPS process.



If you are unhappy with the arrangements you can complain.



The person who lacks capacity, Appropriate Person or IMCA can always complain about the arrangements. They can ask a Court to help make a decision.



The Responsible Body must make sure the person who lacks capacity can complain if they want to. The Court can decide to change the arrangements.

The Court of Protection



The **Court of Protection** is the official name of the Court that can check if a decision about a deprivation of liberty is correct.



They will think about

- the arrangements and how long they will last.
- whether the rules have been followed correctly.
- why the Responsible Body made their decision.



The Court can decide to change or stop the arrangements.



The person who lacks capacity or the Appropriate Person should get some money to pay for help at the Court from someone who knows about the law.

Monitoring and reporting



The law must be followed if a deprivation of liberty happens. There are organisations that will check that the law is followed.



The organisations in England are the **Care Quality Commission** and the **Office for Standards in Education, Children's Services and Skills**.



The organisations in Wales are the **Health Inspectorate Wales**, **Care Inspectorate Wales** and the **Education and Training Inspectorate in Wales, Estyn**.



These organisations must make sure the LPS process is used correctly. The Responsible Body must always tell these organisations about the LPS process and decisions.



These organisations might

- visit the place where the care or treatment will happen.
- need to see all the information.
- meet the person who lacks capacity and their carers.