

# 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. Information and resources on LPS are available at: [www.edgetraining.org.uk/news](http://www.edgetraining.org.uk/news). A detailed training day on LPS is available (in-house or come to our courses in central London). Visit [www.edgetraining.org.uk](http://www.edgetraining.org.uk) for details

**Who:** aged 16 and over + mental disorder + lacks mental capacity

**Where:** anywhere in England and Wales.  
This could 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 up to 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 or an AMCP.

## Rights for the person detained:

- 1. Appeal to the Court of Protection**  
The person under LPS, their appropriate person or their advocate can appeal.
- 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)**  
If a person does not have an appropriate person, they will have an advocate instead unless they lack capacity and it is not considered in their best interests.
- 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.

## Assessors:

the responsible body decides which staff will undertake the assessments (below right). Care Homes can choose which assessors they use - except someone with a prescribed connection (undefined at present) to the home. The majority can be completed by any staff (not professionals) but the government have indicated they expect the mental capacity and mental disorder assessments to be completed by registered professionals.

## Responsible Body:

NHS Trust, private hospitals, Clinical Commissioning Group (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 (or care home manager) organises the LPS assessments. The responsible body undertakes the pre-authorisation review + authorises the LPS + monitors it + renews it + attends the Court of Protection for appeals.

## Procedure:

- 1. Assessments**  
Any member of staff with appropriate experience and knowledge completes the assessments listed below. Mental Capacity and Mental Disorder require professionals.
- 2. Pre-authorisation review**  
Any member of staff from the responsible body not involved in the 'day to day' care or treatment of the person. 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 (or in a private hospital) an AMCP will undertake the review and should meet the person and consult others.
- 3. Authorisation**  
The responsible body authorises the LPS. No specific process is set out for this in LPS.

## Assessments (full legal criteria under an amended Act):

1. Is the person at least 16 years old?
2. Does the person lack mental capacity to consent to the arrangements?
3. Does the person have a mental disorder?
4. Are the arrangements (restrictions) a deprivation of liberty?
5. Are the arrangements necessary and proportionate to prevent harm to the person?
6. Have the person and those interested in the person's welfare been consulted + what did they say?
7. Should the Mental Health Act be used instead?
8. Is the person objecting to living in that place or to the care or treatment?
9. Can an Appropriate Person be appointed? If not, an advocate (IMCA) should be appointed.

The government have stated the Responsible Body must also confirm the arrangements are in the person's best interests and an LPA/Deputy is not objecting to the arrangements).

Note: these must all be recorded, and evidence provided.