

LPS - it's out

The long-awaited draft Mental Capacity Act Code of Practice, including the Liberty Protection Safeguards ("LPS"), has landed.

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The long awaited draft Mental Capacity Act Code of Practice, including the Liberty Protection Safeguards ("LPS"), has landed. There is an associated Consultation on the draft Code, as well as on LPS secondary legislation, which is open until 7 July 2022.

There is a lot to digest. The Code is over 500 pages long and there are 6 (4 for England only) sets of associated draft Regulations underpinning the LPS. We also have updated guidance on implementation, an updated Impact Assessment and a LPS workforce and training strategy.

As part of the new Code we have a proposed revised approach to the test for capacity, guidance on the often challenging area of fluctuating capacity and more detail on best interests decision making. Unsurprisingly the importance of wishes and feelings features heavily.

For LPS we now have the detail we have long been waiting for. Further analysis will follow but we have a chapter on the definition of deprivation of liberty and some interesting commentary on Ferreira. There will be 21 days to complete assessments and we have a lot more detail on how AMCPs will work in the new system.

Finally, we also have commentary on when court applications will be required.

Further detail on the specifics will follow, including a [webinar taking place Tuesday 12 April](#), to bring you up to speed on the changes and support your response to the Consultation.

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