Browne Jacobson

The Liberty Protection Safeguards: brief update

The Liberty Protection Safeguards (LPS) will be used to authorise the proportionate and necessary deprivation of liberty for people aged 16 and above who lack the mental capacity to consent to their care arrangements.

04 February 2022

The Liberty Protection Safeguards (LPS) will be used to authorise the proportionate and necessary deprivation of liberty for people aged 16 and above who lack the mental capacity to consent to their care arrangements. The current Deprivation of Liberty Safeguards (DoLS) only apply to those aged 18 or over. The LPS will apply to individuals residing in domestic settings, which includes the person's own home/family home, shared lives and supported living.

However, the already delayed LPS implementation date (April 2022) has now been pushed back further and a lot will need to happen before the DoLS are replaced. Watch out for the consultation on the draft Code of Practice and the draft Regulations, but in the meantime, take a look at the Human Rights Bill consultation commentary on Cheshire West at paras 159/160.

The aim of the LPS is to spread responsibility across hospitals, CCGs and social care, in order to share the administrative burden, whilst also building the LPS process into the care planning process itself. There are proposals to use similar but simplified assessments to the current system, but with independent authorisation by an Approved Mental Capacity Practitioner largely limited to those cases where P objects to the arrangements. The LPS will allow for portability and variability so that, where appropriate, the authorisation will follow the person, rather than being specific to their current location.

For further information, see the Department of Health and Social Care fact sheets here or our more detailed previous summary here

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