

Govt Consultation on Changes to the MCA Code of Practice and Implementation of LPS

The Mental Capacity Act (MCA)

The Mental Capacity Act (MCA) applies to anyone over the age of 16 who may have difficulty in making decisions - the Act was a seminal piece of legislation to create a clear legal framework around individuals who may have issues with decision making.

The MCA has been law for almost 15 years now, and it was accompanied by the publication of a Code of Practice to guide its implementation and practice. A new Court of Protection was created at the same time – the Court deals solely with cases regarding individuals who lack the mental capacity to make certain decisions for themselves – there has been 15 years of case law that has evolved through the Court. The Code of Practice for the MCA has been long due an update and a review, the Ministry of Justice commenced this a number of years ago.

The Deprivation of Liberty Safeguards

People who lack the mental capacity to make their own decisions will lose some of their rights or freedoms. In some instances they will lose them to a degree that is known as a “Deprivation of their Liberty.” There are a set of rules that need to be followed in such instances in order to protect their rights and freedoms. These are currently called the Deprivation of Liberty Safeguards (DoLS).

The Deprivation of Liberty Safeguards (DoLS) were implemented in 2009, but they had limited coverage and did not make it easy for all the people who may need such safeguards to their rights and freedoms to receive this protection. There is a plan to replace the old scheme with an improved set of rules that will be called the Liberty Protection Safeguards. The new scheme will provide much greater coverage and it is hoped that they will make it easier to ensure that everybody who requires these safeguards will be able to receive the protection that they will bring.

Consultation - closing Date 7th July 2022

The Govt are consulting on the proposed changes to the Mental Capacity Act 2005 (MCA) Code of Practice, which includes guidance on the new Liberty Protection Safeguards (LPS) system. This consultation is also seeking views on the LPS regulations, which will underpin the new system.

This is a joint consultation published by the Department of Health and Social Care (DHSC) and the Ministry of Justice (MoJ).

The LPS will apply to people over the age of 16, and the Department for Education (DfE) has been involved in the development of this new system.

The government is consulting on a number of documents – here is the link to the Govt consultation that includes all the documents and Easy Read versions of the documents and the consultation response.

[Changes to the MCA Code of Practice and implementation of the LPS - GOV.UK \(www.gov.uk\)](#)

However, the Govt understands that not everyone will want to tell them what they think by responding to the Easy Read consultation [survey](#). We are therefore going to be holding a number of online events where people with lived experience of the Deprivation of Liberty Safeguards and the

Mental Capacity Act will have the opportunity to tell us what they think about the Liberty Protection Safeguards and what it might mean for them.

We expect that each event will be held online and will be roughly two and half hours long, including half an hour for breaks. The events will be run by the Department of Health and Social Care (DHSC) and led by Hilary Paxton, who has previously led events for people with lived experience about the Liberty Protection Safeguards.

If you or someone you know would like to attend one of these events, please fill in and submit this online [form](#). Please make sure that a form is submitted for each person who is interested in attending.