

# Liberty Protection Safeguards Update

Adult Social Care Cabinet Committee  
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## Position Statement

The Mental Capacity (Amendment) Act received Royal assent in May 2019 with the new law, Liberty Protection Safeguards (LPS), replacing the Deprivation of Liberty Safeguards (DoLS). An original Go Live date of October 2020 was proposed, but subsequently pushed back due to Covid19 and the global pandemic.

Kent County Council, adult social care planned for this change, alongside other local authorities across the country. A significant amount of work was done to ensure Kent was prepared for the new arrangements, including working with Partners Agencies, the council's Strategic Commissioning, Policy, Organisational Development and Performance and Systems Teams.

Notification was received from the Department of Health and Social Care, of the Government's decision to delay the implementation of LPS. The decision was taken to allow the Government to focus on Adult Social Care Reform and the publication of the 'Next Steps to Put People at the Heart of Care'.

Work to date was acknowledged, and the Government intends to publish a summary of responses to the consultation in due course.

DoLS will remain the legal framework that Health and Social Care providers will work to. The team who have worked towards bringing the LPS forward have been moved on to other areas of work.

Nationally, DoLS has presented local authorities with a significant challenge since the Cheshire West judgement in 2014. Kent County Council is no exception to this.

The DoLS Team, whilst preparing for change, has developed more sustainable ways of delivering the existing service including introducing proportionate assessments for people needing the service for extended periods of time, optimizing digital solutions to check on those who have been waiting to be seen, re-prioritising people where necessary, working closely with health colleagues and the acute settings to ensure people have the necessary safeguards in place. Demand continues to outstrip capacity in relation to the availability of Best Interest Assessors (BIA), S12 Doctors, and Advocates.

The current position of the service is:

- As of March 2023, the DoLS Service received 9422 applications, compared to the previous year (2021-2022) where 8523 applications were received.
- DoLS Team has 6.5 Full Time Equivalent (FTE) BIAs and their primary focus is all aspects associated with DoLS activity.
- DoLS Assessments are further supported by the 45 BIAs in Community Teams working on a rota. Each BIA is asked to assist by completing one assessment a month. These staff are tasked with carrying out this work alongside their day-to-day work, which presents a challenge due to competing demands.
- Each assessment takes, on average, between 11 hours-15 hours, depending on the involvement needed for the person being assessed.
- Community DoLS reports confirm significant number of people identified within the Community Teams, which will require awareness raising, applying and using the Association of Directors of Adult Social Services (ADASS) screening tool and progressing these people through to the Court of Protection.

To mitigate risks and ensure that Kent County Council is still able to meet its ongoing legislative obligations and to ensure that the Equality and Human Rights of those who may be deprived of their liberty are met, the following recommendations will be explored by the operational team working alongside the Policy and Quality Assurance and wider management team:

- Training programme for all staff, including an induction programme provided by the DoLS Team, for Community Team Managers to improve legal literacy.
- Review the current process for prioritisation, ensuring those people most at risk remain the focus of our work.
- Give closer scrutiny to those people who wish to bring a Section 21(a) legal challenge and ensure Community Teams involvement.
- Collaborate with key partners (Care Homes and Hospitals) and the wider sector (ADASS - South East Regional DoLS network) to understand how we safeguard people who may or may not have been deprived of their liberty.
- Continue to track and review the financial position regarding resources and consider how they are aligned to service delivery and ensuring that Kent County Council is not in breach of its statutory obligations.
- Complete work on the automisation/digital first solution in regard to the DoLS application process.
- Continue to explore and understand Kent's challenges regarding the legal framework/the volume of work/applications/orders and delays by the Court of Protection.
- Mental Capacity Assessment (MCA) and DoLS policy to be fully reviewed.
- Continue to collaborate with the ADASS - South East Regional DoLS Network and monitoring government policy and strategic changes.