

From DoLS
to LPS

Jacque
Bickers



The LPS
briefing will
touch on:

The LPS changes

Workforce Planning – how does
the change affect you?

Front loading LPS thinking

What is a Deprivation of Liberty?

To determine whether a person is deprived of their liberty, there are two key questions:

The 'Acid test'

- **Not free to leave (meaning, not free to go and live somewhere else)**
- **Under complete and effective supervision and control (not necessarily 'line of sight' but staff or carers know what they're doing & where) *and***

That they are not objecting, that the arrangements are the least restrictive possible, that their living arrangements are as 'comfortable' or their life as 'enjoyable' as it could be, is irrelevant to the objective question of whether they are deprived of their liberty: 'A gilded cage is still a cage.' *Lady Hale, Supreme Court 'Cheshire West' case [2014] UKSC 19*

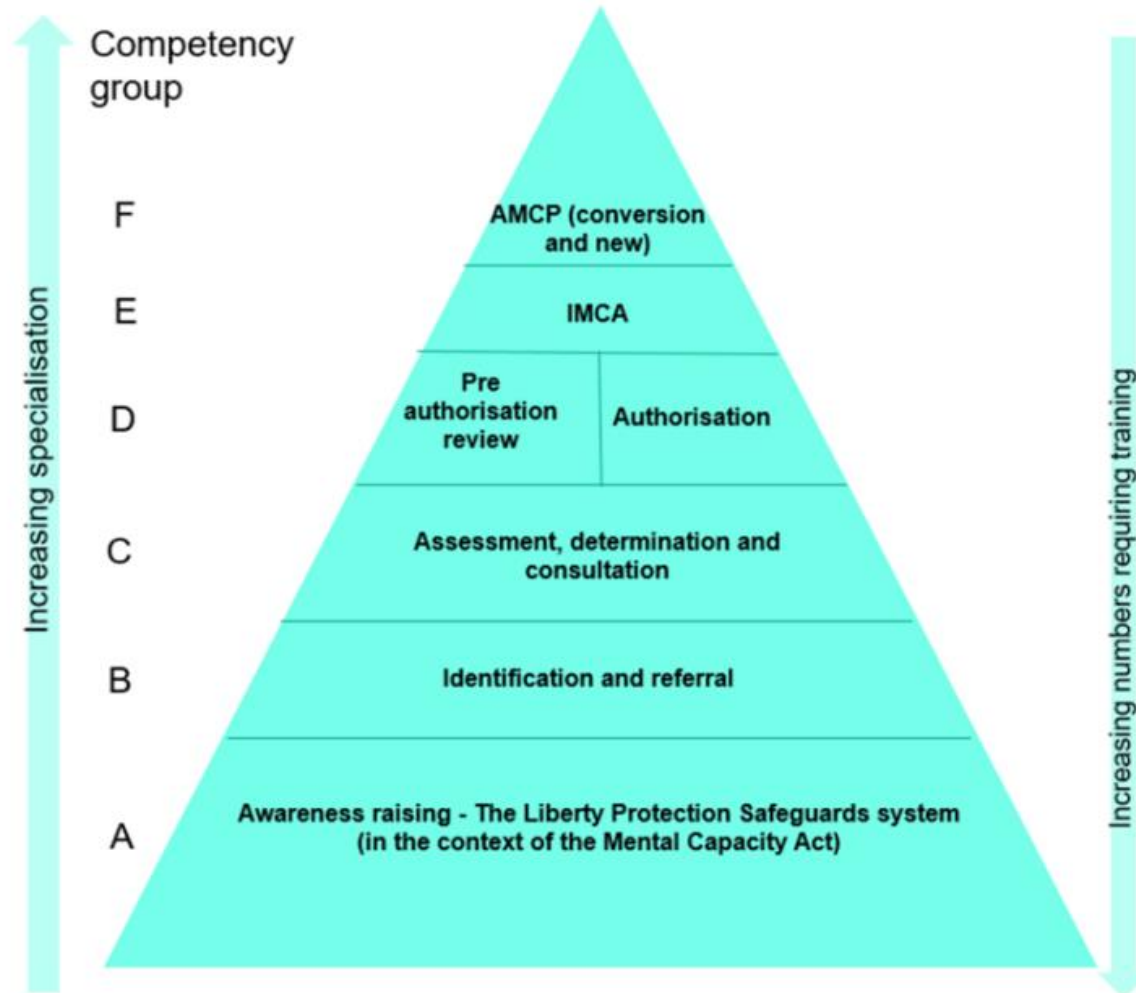
Liberty Protection Safeguards

From this ... DOLS (NOW)	To this ... LPS (NEW)
Applies in care homes and hospitals only. For domestic settings have to apply to CoP	Applies in any setting (or multiple) including people's own homes, residential and non-residential schools, Shared Lives, children's homes, supported living, day services
Authorisation does not move with the person	Portable - Not fixed to one particular setting
Applies from age 18	Applies from age 16
Care home or hospital identify 'acid test' is met	Frontline staff/anyone involved in person's care identifies 'Acid Test' is met
6 Assessments	3 Assessments - Medical; Capacity, Necessary and Proportionate
BIAs undertake capacity and/or best interests assessments once referral made. This role will cease to exist.	Registered staff - SWs, OTs, Nurses, SaLT undertake Capacity and Necessary and Proportionate Assessments as part of care planning and other assessment processes e.g EHCPs,
Local Authority authorises	New Responsible Bodies authorise: hospital - NHS Trust; CHC funded - the ICB; In all other situations, the local authority (usually based on Ordinary Residence or EHCP or S20/S37 CA
Relevant Person's Representatives (including paid Reps) support person in all matters related to DoLS	Appropriate Persons and Independent Mental Capacity Advocates (IMCAs) to support the person

LPS thinking for people working with 16/17 year olds

- The legal framework starts with the MCA – Liberty and Rights;
- Same principles and approach that apply to adults re decision making will apply to young people
- Understand and recognise when a deprivation is happening, including community DoLS;
- LPS will sit alongside other assessment processes e.g. for LAC; EHCP, IDPs;
- LPS thinking should align with current guidance re transition planning for children with EHCP, IDP;
- LPS needs to be part of careful transition planning in line with statutory principles and frameworks.

Draft LPS Training Framework



There are five subject headings for each competency group:

1. Human Rights as a Basis for the Liberty Protection Safeguards
2. Concepts of the Mental Capacity Act 2005
3. Liberty Protection Safeguards (LPS) Process
4. What is Deprivation of Liberty
5. Young People

What will it mean for different providers?

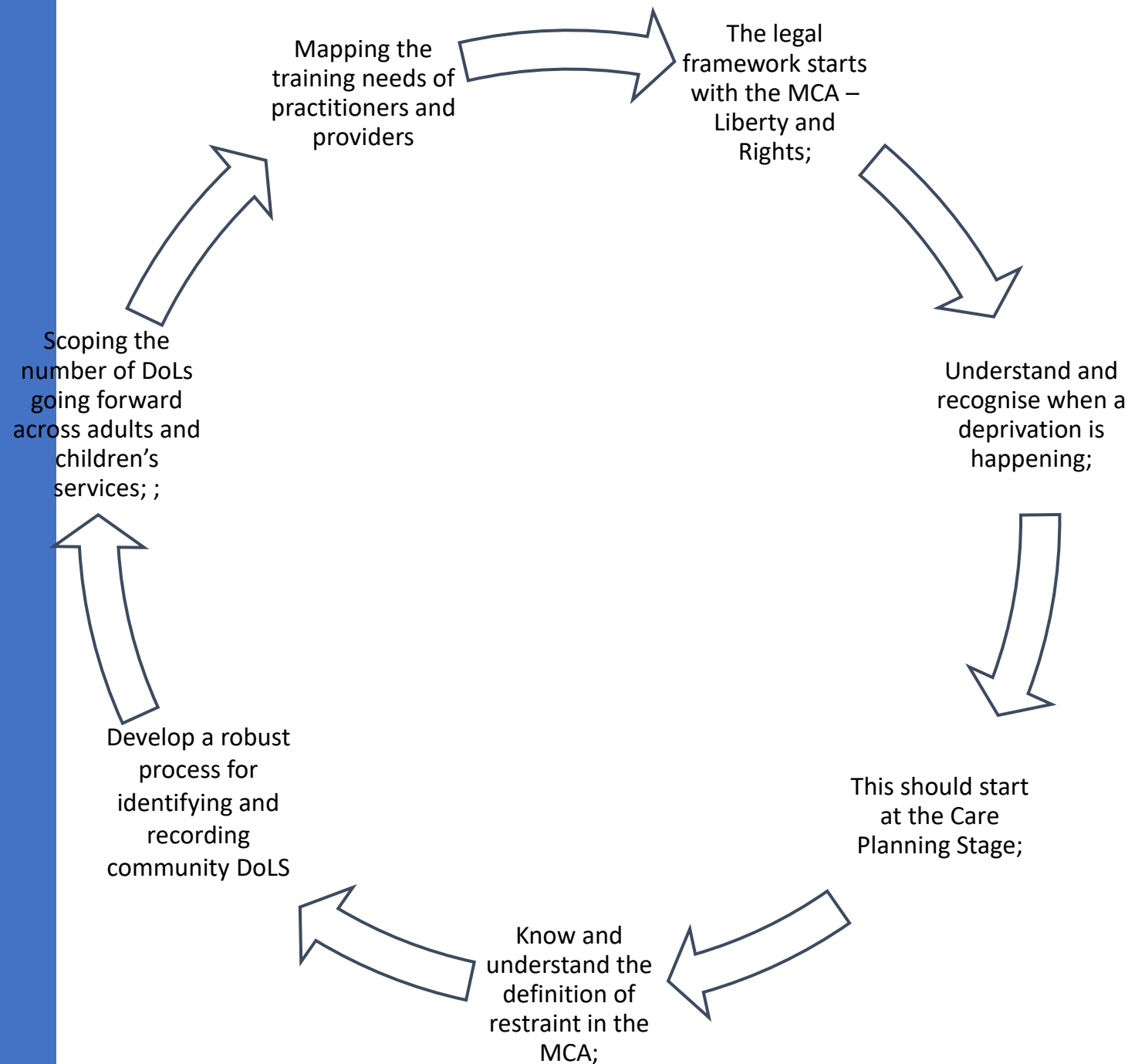
Residential care providers

- Care homes have been working with DoLS for a long time
- Will need to know how LPS work but still dealing with the same local authority in a similar way to DoLS

Supported living, Shared Lives settings, home care, services for 16/17 year old's

- Providers will have to learn to work within new process
- Likely to be a 'learning curve' the MCA
- Will not have to carry out assessments /authorisations

Front loading LPS Thinking and Planning



LPS Consultation – Draft Code of Practice

- Consultation has been running 17 weeks from 17 March until 14 July 2022;
- PCC has been involved and have submitted our response but everyone was free to respond as an individual;
- Planned implementation is assumed to be October 2023;

Resource links

- [Deprivation of liberty and 16-17 year olds: Practice Guide | Research In Practice](#) 31/03/2020
Author: Ruck Keene A, Parker C



Any Questions