



## Mental Capacity (Amendment) Act

### Liberty Protection Safeguards Implementation



29<sup>th</sup> January 2021

### Dear LPS Stakeholders,

We are pleased to share with you the fourth edition of the LPS newsletter, which contains a number of key updates on our progress to implement LPS.

### Impact Assessment

On the 28<sup>th</sup> January we published the updated [Impact Assessment](#) (IA) for the Mental Capacity (Amendment) Act 2019 (MC(A)A).

It is important to note that this IA is an assessment of the legislative provisions contained in the MC(A)A when it received Royal Assent. Consequently, there is still a reference to the role of the care home manager, which as we confirmed in October, will not be implemented, at least not straight away. As many of you will know, the Government's plans for the design of LPS have moved on significantly since the Act received Royal Assent. We are working to set these details out in the draft Code of Practice and six sets of regulations, both for public consultation.

We have worked closely with a number of key stakeholders to update the IA. The most notable changes on the previous version are increased estimates for:

- the cost of training Independent Mental Capacity Advocates (IMCAs),
- the number of IMCAs required and the cost for an IMCA per case and,
- the cost of administering each LPS case for Responsible Bodies.

The Government's proposed policy design for LPS will be subject to another, updated Impact Assessment, which we plan to publish alongside the public consultation.

### LPS Team updates

Since our last message to you in November, the DHSC LPS Policy team has grown. We are pleased to announce the recent appointment of Sebastian Culliford. Seb will be leading on the LPS consultation currently planned for 2021.

### December meeting of the LPS Steering Group

The last LPS Steering Group was held on the 16<sup>th</sup> of December. It focused on key implementation work strands covering monitoring and reporting, workforce readiness, and data. We have published a readout from that meeting that is accessible via the [LPS landing page](#). The next Steering Group will be held on the 10th February.

The Government is finalising its proposals for the monitoring and reporting of LPS, which will be set out in a draft set of regulations and relevant Code of Practice chapter, for public consultation. Under these proposals, CQC and Ofsted would be the two bodies in England to monitor and report on LPS. The responsibility for monitoring and reporting would be divided between CQC and Ofsted broadly on the basis of age. Responsible Bodies would be required to regularly notify the monitoring bodies of new, renewed and varied LPS authorisations. They would also be asked to notify the monitoring bodies of authorisations that come to an end. The monitoring bodies would report on LPS annually, via a published report. The monitoring bodies would be granted new powers relating to the monitoring and reporting of LPS.

Working with key delivery partners, we have developed a prototype National Minimum Dataset (NMDS) for LPS. This dataset will capture the variables required by CQC and Ofsted to monitor and report on the LPS. We have begun to road test the dataset with organisations who will use it to submit or receive information under LPS,

including Responsible Bodies, CQC and Ofsted. We will test it with more organisations this year.

We have facilitated a number of workshops with partners across the health, social care, local government and education sectors on plans to prepare their respective workforces for LPS. These discussed what the learning outcomes for training across different parts of the LPS workforce could be. The outputs from these workshops are informing our draft LPS National Workforce and Training Strategy which we hope to publish this year.

### [Code of Practice](#)

Last year we confirmed our intention that the LPS Code of Practice will be combined with the updated MCA Code of Practice. The joint Code of Practice would provide statutory guidance on implementing the LPS system in England and in Wales. We are working closely with the Welsh Government to ensure that relevant Welsh health and social care legislation is reflected in the draft Code of Practice, ahead of public consultation.

The Code of Practice will be published in English, Welsh and easy read formats. We will ensure that relevant documents will also be available in these formats during the public consultation period, to help ensure that everyone who wants to respond to the consultation has the information they need to be able to do that.

### [Factsheet Three](#)

We have also published LPS Factsheet Three – ‘Settings and Responsible Bodies’. This explains settings where an LPS authorisation can apply in England and Wales and who the Responsible Body will be in different settings. It is [here](#).

### [Wired+](#)

Finally, some of you may have noticed that we have begun to use the platform Wired+ to deliver our newsletters. To ensure you receive our newsletters, we ask that you add our sending domain (email address), which is **news@dhsc-mail.co.uk**, to your [Safe senders list](#). To add our email address to your safe senders list:

1. On the **Home** tab, click **Junk**, and then click **Junk E-mail Options**.

2. On the **Safe Senders** tab, check the **Automatically add people I e-mail to the Safe Senders List** box.

This will ensure our newsletters are delivered to you.

As always, we welcome your feedback on the content of our regular newsletters and encourage you get in touch with us at [lps.cop@dhsc.gov.uk](mailto:lps.cop@dhsc.gov.uk) with any queries or comments.

If this newsletter has been forwarded to you, and you'd like to be included on our LPS and DoLS mailing list, please contact the email address above – we will add you to it.

Best wishes,

LPS policy team at DHSC