

News story: New law introduced to protect vulnerable people in care

The Mental Capacity (Amendment) Bill was introduced to the House of Lords on Tuesday 3 July and seeks to replace the current system known as 'Deprivation of Liberty Safeguards' (DoLs).

DoLs is an assessment currently carried out on people who do not have the mental capacity to make their own decisions about their care, for example because they are living with dementia. It was criticised by a 2017 Law Commission review for being too complex and bureaucratic.

The government has now developed a new system, known as 'Liberty Protection Safeguards', which will become law through the bill.

The reforms seek to:

- introduce a simpler process that involves families more and gives swifter access to assessments
- be less burdensome on people, carers, families and local authorities
- allow the NHS, rather than local authorities, to make decisions about their patients, allowing a more efficient and clearly accountable process
- consider restrictions of people's liberties as part of their overall care package
- get rid of repeat assessments and authorisations when someone moves between a care home, hospital and ambulance as part of their treatment

The reforms will also save local authorities an estimated £200 million or more a year.

DoLs and the new system are both intended as a safeguard to ensure people are only deprived of their liberty when it is in their best interest, for example, to keep them safe.

An example of a deprivation of liberty would be the use of locks or key pads which stop a person from going out or into different areas of the building.

Minister for Care Caroline Dinenage said:

Treating people with respect and dignity, no matter their disability or condition, is the touchstone of a civilised society. I want to ensure that the system works for everyone and ensures that individuals' fundamental rights are protected while reassuring families their loved ones are getting good care.

We know local authorities are under pressure which is why these reforms are so important: to reduce the burden on councils so they can focus their resources where they are needed on the frontline.

Law Commissioner Nicholas Paines QC said:

In our report we were clear that the Deprivation of Liberty Safeguards needed to be replaced as a matter of pressing urgency.

This new legislation, based broadly on our recommendations, will go a long way towards addressing the flaws of the current system and better protect the most vulnerable in our society.