



Welsh Government  
Consultation Document

## Draft Regulations for Wales: Liberty Protection Safeguards

Consultation on four sets of draft Regulations for Wales to support the implementation of the Mental Capacity (Amendment) Act 2019 and the Liberty Protection Safeguards. These relate to:

- Independent Mental Capacity Advocates
- Approved Mental Capacity Professionals
- Who can undertake assessments, make determinations and carry out pre-authorisation reviews
- Monitoring and reporting of the Liberty Protection Safeguards

Date of issue: **17 March 2022**

Action required: **14 July 2022**

Mae'r ddogfen yma hefyd ar gael yn Gymraeg.

This document is also available in Welsh.

**Overview**

Welsh Government is consulting on four sets of draft Regulations which will support the implementation of the new Liberty Protection Safeguards in Wales (the LPS), as introduced by the Mental Capacity (Amendment) Act 2019, as well as the associated draft Impact Assessments.

**How to respond**

Please provide your responses to the consultation by **14 July 2022** in any of the following ways:

Complete our [online form](#)

Download and complete our response form and email this to:

[MentalHealthandVulnerableGroups@gov.wales](mailto:MentalHealthandVulnerableGroups@gov.wales)

Download and complete our response form and post to:

Mental Health and Vulnerable Groups Team  
Welsh Government  
4<sup>th</sup> Floor Cathays Park  
Cardiff  
CF10 3NQ

**Further information and related documents**

**Large print, Braille and alternative language versions of this document are available on request.**

The website for the consultation is:

<https://gov.wales/liberty-protection-safeguards>

Plain English and Easy Read versions of the draft Regulations for Wales, and information on the Workforce Plan for the Liberty Protection Safeguards and plans for monitoring and reporting are also available via the link above.

**Contact details**

For further information:

Mental Health and Vulnerable Groups Team  
Welsh Government  
4<sup>th</sup> Floor Cathays Park  
Cardiff  
CF10 3NQ

Email: [MentalHealthandVulnerableGroups@gov.wales](mailto:MentalHealthandVulnerableGroups@gov.wales)

Telephone: 0300 060 4400

**Also available in  
Welsh at:**

<https://llyw.cymru/diogeliadau-amddiffyn-rhyddid>

## General Data Protection Regulation (GDPR)

The Welsh Government will be data controller for any personal data you provide as part of your response to the consultation. Welsh Ministers have statutory powers they will rely on to process this personal data which will enable them to make informed decisions about how they exercise their public functions. Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about or planning future consultations. Where the Welsh Government undertakes further analysis of consultation responses then this work may be commissioned to be carried out by an accredited third party (e.g. a research organisation or a consultancy company). Any such work will only be undertaken under contract. Welsh Government's standard terms and conditions for such contracts set out strict requirements for the processing and safekeeping of personal data.

In order to show that the consultation was carried out properly, the Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. If you do not want your name or address published, please tell us this in writing when you send your response. We will then redact them before publishing.

You should also be aware of our responsibilities under Freedom of Information legislation

If your details are published as part of the consultation response then these published reports will be retained indefinitely. Any of your data held otherwise by Welsh Government will be kept for no more than three years.

### Your rights

Under the data protection legislation, you have the right:

to be informed of the personal data held about you and to access it

to require us to rectify inaccuracies in that data

to (in certain circumstances) object to or restrict processing

for (in certain circumstances) your data to be 'erased'

to (in certain circumstances) data portability

to lodge a complaint with the Information Commissioner's Office (ICO) who is our independent regulator for data protection.

For further details about the information the Welsh Government holds and its use, or if you want to exercise your rights under the GDPR, please see contact details below:

Data Protection Officer:  
Welsh Government  
Cathays Park  
CARDIFF

CF10 3NQ

e-mail:

[Data.ProtectionOfficer@gov.wales](mailto:Data.ProtectionOfficer@gov.wales)

The contact details for the Information Commissioner's Office are:

Wycliffe House

Water Lane

Wilmslow

Cheshire

SK9 5AF

Tel: 01625 545 745 or  
0303 123 1113

Website: <https://ico.org.uk/>

# Contents

- General Data Protection Regulation (GDPR) .....4
- Foreword.....7
- Summary ..... 10
- Background to the consultation: what are the main issues? ..... 10
- Where are we now? Mental Capacity Act 2005 and Deprivation of Liberty ..... 11
  - Mental Capacity Act 2005 ..... 11
  - Deprivation of Liberty..... 11
- Evidence for change: The Liberty Protection Safeguards (LPS)..... 12
  - Overview of the LPS ..... 14
- Summary – LPS Regulations for Wales ..... 16
  - The Mental Capacity Act 2005 (Independent Mental Capacity Advocates) (Wales) (Amendment) Regulations 2022..... 16
  - The Mental Capacity (Deprivation of Liberty: Eligibility to Carry out Assessments, Make Determinations and Carry out Pre-Authorisation Reviews) (Wales) Regulations 2022 ..... 17
  - The Mental Capacity (Deprivation of Liberty: Training and Criteria for Approval as an Approved Mental Capacity Professional) (Wales) Regulations 2022 ..... 17
  - The Mental Capacity (Deprivation of Liberty: Monitoring and Reporting) (Wales) Regulations 2022.19
- Broader consultation questions regarding the implementation of the LPS in Wales.....20
- UK Government consultation on the draft Code of Practice for the Mental Capacity Act and the Liberty Protection Safeguards.....21
- UK Government consultation on transitional Regulations and consequential amendments.....22
- Annex 1 SUMMARY: The Mental Capacity Act 2005 (Independent Mental Capacity Advocates) (Wales) (Amendment) Regulations 2022 ..... 23
- Annex 2 SUMMARY: The Mental Capacity (Deprivation of Liberty: Eligibility to Carry out Assessments, Make Determinations and Carry out Pre-Authorisation Reviews) (Wales) Regulations 2022 .....25
- Annex 3 SUMMARY: The Mental Capacity (Deprivation of Liberty: Training and Criteria for Approval as an Approved Mental Capacity Professional) (Wales) Regulations 2022 .....28
- Annex 4 SUMMARY: The Mental Capacity (Deprivation of Liberty: Monitoring and Reporting) (Wales) Regulations 2022 ..... 30
- Consultation Response Form ..... 32

## Foreword

The right to liberty is one of our most fundamental human rights. The Deprivation of Liberty Safeguards (DoLS) is the existing scheme for the assessment and authorisation of deprivations of liberty and were introduced to protect the human rights of those individuals who lack the mental capacity to consent to being deprived of their liberty. Following the Supreme Court judgement in the case of *Cheshire West*,<sup>1</sup> the UK Government introduced the Mental Capacity (Amendment) Act 2019, with the view to repealing DoLS and replacing it with the Liberty Protection Safeguards (the LPS). Unlike DoLS (which only applied to arrangements in care homes and hospitals and to people aged 18 and above), the LPS will apply in all settings. For the first time, the LPS will extend to people's homes and will also apply to anyone aged 16 and over.

Although the LPS are a policy where decision making is reserved to the UK Government, Welsh Government is fully supportive of the reforms being introduced. We have welcomed the Mental Capacity (Amendment) Act 2019 and the regulation-making powers it provides for the Welsh Ministers. It is widely recognised that there are number of challenges associated with the current DoLS system, particularly in light of the recent increases in the number of DoLS applications – which we have seen across England and Wales. Introducing the new safeguards will deliver improved outcomes for people deprived of their liberty and their families by creating a new simplified legal framework which is compliant with Article 5 (right to liberty) and Article 8 (right to respect for private and family life) of the European Convention on Human Rights. In particular, the LPS will provide a more effective system which puts the person being deprived of liberty at the heart of the decision-making process. This will better integrate consideration of the LPS and the principles of the Mental Capacity Act into everyday care, support or treatment arrangements, minimising duplication and repetition for individuals, their families and those that support them.

Aligning with the UK Government and their consultation on draft Regulations for England – Welsh Government is now consulting on draft Regulations which will support the implementation of the LPS in Wales. The draft Regulations are focussed on the appointment and role of Independent Mental Capacity Advocates; who can undertake assessments, make determinations and carry out pre-authorisation reviews; the role and appointment of the new Approved Mental Capacity Professional; and monitoring and reporting on the new safeguards. We are also consulting on a number of draft Impact Assessments and we will use the consultation period to gather further evidence of impacts regarding the Regulations.

UK Government is also consulting on the supporting draft Code of Practice for LPS which will apply to both England and Wales. The Regulations for Wales and the Code

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<sup>1</sup> *P v Cheshire West and Chester Council; P and Q v Surrey County Council* [2014] UKS 19. This judgement gave a significantly wider definition of deprivation of liberty than had been previously understood to apply in the health and social care context.

of Practice go hand in hand – and so we would encourage all stakeholders in Wales to also respond to the [UK Government consultation](#) on the draft Code of Practice.

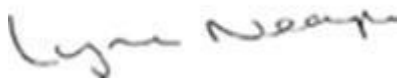
We are grateful for the engagement which stakeholders have provided to date through the LPS Implementation Steering Group for Wales and supporting work streams and sub-groups on workforce and training; monitoring and reporting; 16 and 17 year olds; and the transition from DoLS to LPS. The consultation provides us with the opportunity to review and engage more widely. We will also use the consultation to inform our planning for the transition arrangements from DoLS to the LPS. It is critical that we are in a position of strength as we move from one system to another and we fully recognise that the success of the LPS will be dependent on embedding the principles of the Mental Capacity Act 2005 across a range of settings.

Ultimately, introducing the new safeguards provides us with an opportunity to strengthen our position in Wales in terms of protecting the human rights of those people who lack mental capacity. Your views on the draft Regulations for Wales are therefore paramount.



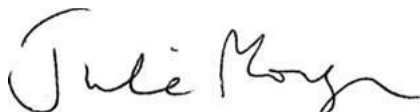
**Eluned Morgan AS/MS**

Y Gweinidog Iechyd a Gwasanaethau Cymdeithasol  
Minister for Health and Social Services



**Lynne Neagle AS/MS**

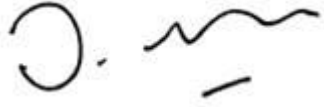
Y Dirprwy Weinidog Iechyd Meddwl a Llesiant  
Deputy Minister for Mental Health and Wellbeing



**Julie Morgan AS/MS**

Y Dirprwy Weinidog Iechyd a Gwasanaethau Cymdeithasol  
Deputy Minister for Health and Social Services



A handwritten signature in black ink, consisting of a large 'J' followed by a series of wavy lines and a short horizontal stroke at the end.

**Jeremy Miles AS/MS**

Gweinidog y Gymraeg ac Addysg  
Minister for Education and Welsh Language

## Summary

### Background to the consultation: what are the main issues?

We are consulting on new Regulations for Wales which will support the implementation of the Liberty Protection Safeguards (the LPS). The new safeguards will provide important rights and protections for people who lack the mental capacity to agree to care, support or treatment arrangements, where these arrangements amount to a deprivation of liberty.

The four sets of draft Regulations for Wales are:

- **The Mental Capacity Act 2005 (Independent Mental Capacity Advocates) (Wales) (Amendment) Regulations 2022**

These Regulations will amend the existing Regulations<sup>2</sup> on the role and appointment of Independent Mental Capacity Advocates (IMCAs). IMCAs are there to support the cared-for person under the LPS and those individuals who have been identified as the cared-for person's Appropriate Person. A summary is at annex 1.

- **The Mental Capacity (Deprivation of Liberty: eligibility to carry out assessments, make determinations and carry out pre-authorisation reviews) (Wales) Regulations 2022**

These Regulations set out who can undertake assessments, make determinations and carry out pre-authorisation reviews as part of the new process for authorising arrangements that amount to a deprivation of liberty, for people who lack the mental capacity to agree to those arrangements. A summary is at annex 2.

- **The Mental Capacity (Deprivation of Liberty: training and criteria for approval as an Approved Mental Capacity Professional) (Wales) Regulations 2022**

These Regulations set out arrangements regarding the role and approval by local authorities of Approved Mental Capacity Professionals (AMCPs). This is a new role within the LPS, designed to provide additional safeguards for people by undertaking a pre-authorisation and / or determining whether the authorisation conditions are met. A summary is at annex 3.

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<sup>2</sup> The Mental Capacity Act 2005 (Independent Mental Capacity Advocates) (Wales) Regulations 2007 (S.I. 2007/852 (W. 77)).

- **The Mental Capacity (Deprivation of Liberty: Monitoring and Reporting) (Wales) Regulations 2022**

These Regulations support the monitoring and reporting of the new system and the implementation of the LPS. The Regulations identify the three monitoring bodies – Care Inspectorate Wales (CIW), Health Inspectorate Wales (HIW) and Her Majesty’s Inspectorate for Education and Training (Estyn) – who will be responsible for monitoring and reporting on the new safeguards. A summary is at annex 4.

## Where are we now? Mental Capacity Act 2005 and Deprivation of Liberty

### Mental Capacity Act 2005

Article 5 of the European Convention on Human Rights (ECHR) guarantees the right to liberty and provides that no one should be deprived of their liberty on an arbitrary basis, unless proper safeguards are delivered.

The Mental Capacity Act 2005 (the MCA 2005) is designed to protect and empower people who may currently lack the mental capacity to make their own decisions about their care, support or treatment. It also allows people who have capacity to make preparations for a time when they may lack capacity in the future.

The MCA 2005 applies in England and Wales.

### Deprivation of Liberty

A European Court of Human Rights judgment in 2004<sup>3</sup> identified a gap in the UK law, known as the “Bournemouth gap”, where people who lacked capacity to consent to treatment were being deprived of their liberty for the purpose of mental health treatment under the common law rather than the Mental Health Act 1983. This meant they were therefore being denied the necessary procedural safeguards as demanded by the right to liberty (Article 5).

The current Deprivation of Liberty Safeguards (DoLS) system was introduced to close this gap and came into force in 2009 through the introduction of new provisions added to the MCA 2005 (by the Mental Health Act 2007). They intended to ensure that, where a person is under arrangements that amount to a deprivation of liberty, and they are unable to consent to those arrangements, they have access to the necessary safeguards.

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<sup>3</sup> HL v United Kingdom (2005) 40 EHRR 32 (App No 45508/99)

In March 2014, the Supreme Court judgement known as “Cheshire West”<sup>4</sup> introduced the ‘Acid Test’. This states that an individual who lacks the capacity to consent to the arrangements for their care is deprived of their liberty if they are:

1. subject to continuous supervision and control.
2. not free to leave their care setting.

Because of this judgment, the number of cases referred by hospitals and care homes to the DoLS process has increased. In Wales, there were 631 applications for DoLS authorisations in 2013/14. A total of 6,486 new and further DoLS applications were received by Health Boards in 2019/20. At the end of the 2019/20 financial year, a total of 10,402 DoLS applications were received by local authorities across Wales. This created a significant increase of pending applications.<sup>5</sup>

Additionally, the House of Lords Select Committee on the MCA 2005 found in its 2014 post-legislative scrutiny report that the legislation was “bureaucratic” and “too complex” and that the safeguards were frequently not used at all. The Law Commission subsequently reviewed the MCA 2005 and the DoLS. It recommended that the DoLS should be repealed and replaced.<sup>6</sup>

The UK Government’s response<sup>7</sup> to the Law Commission Report was published in March 2018.<sup>8</sup> The LPS were consequently introduced by the Mental Capacity (Amendment) Act 2019 (the MC(A)A 2019) and will be activated once the LPS Regulations for England are ratified in Parliament and the LPS Regulations for Wales are passed by Senedd Cymru.

## Evidence for change: The Liberty Protection Safeguards (LPS)

The LPS will replace the DoLS as the system that authorises arrangements amounting to a deprivation of liberty in order to provide care or treatment to an individual who lacks the relevant mental capacity to consent to those arrangements, in England and Wales.

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<sup>4</sup> P v Cheshire West and Chester Council; P and Q v Surrey County Council [2014] UKS 19.

<sup>5</sup> [CIW and HIW Annual Report on DoLS 2019-20](#)

<sup>6</sup> [Mental Capacity and Deprivation of Liberty | Law Commission](#)

<sup>7</sup> [Written statements - Written questions, answers and statements - UK Parliament](#)

<sup>8</sup> [Mental Capacity and Deprivation of Liberty | Law Commission](#)

Though the LPS has the same purpose as the DoLS, the new system is different by design, in a number of ways.

The new system will put the person at the centre of the decision-making process and increase participation, voice and control. The LPS will introduce an explicit duty to consult with the person, and those interested in their welfare, to establish their wishes and feelings about proposed arrangements. Those who are close to the person will also be able to provide representation and support to them via a new 'Appropriate Person' role. Furthermore, the rights of people at the heart of the most complex cases will be considered and upheld by new 'Approved Mental Capacity Professionals' (AMCPs).

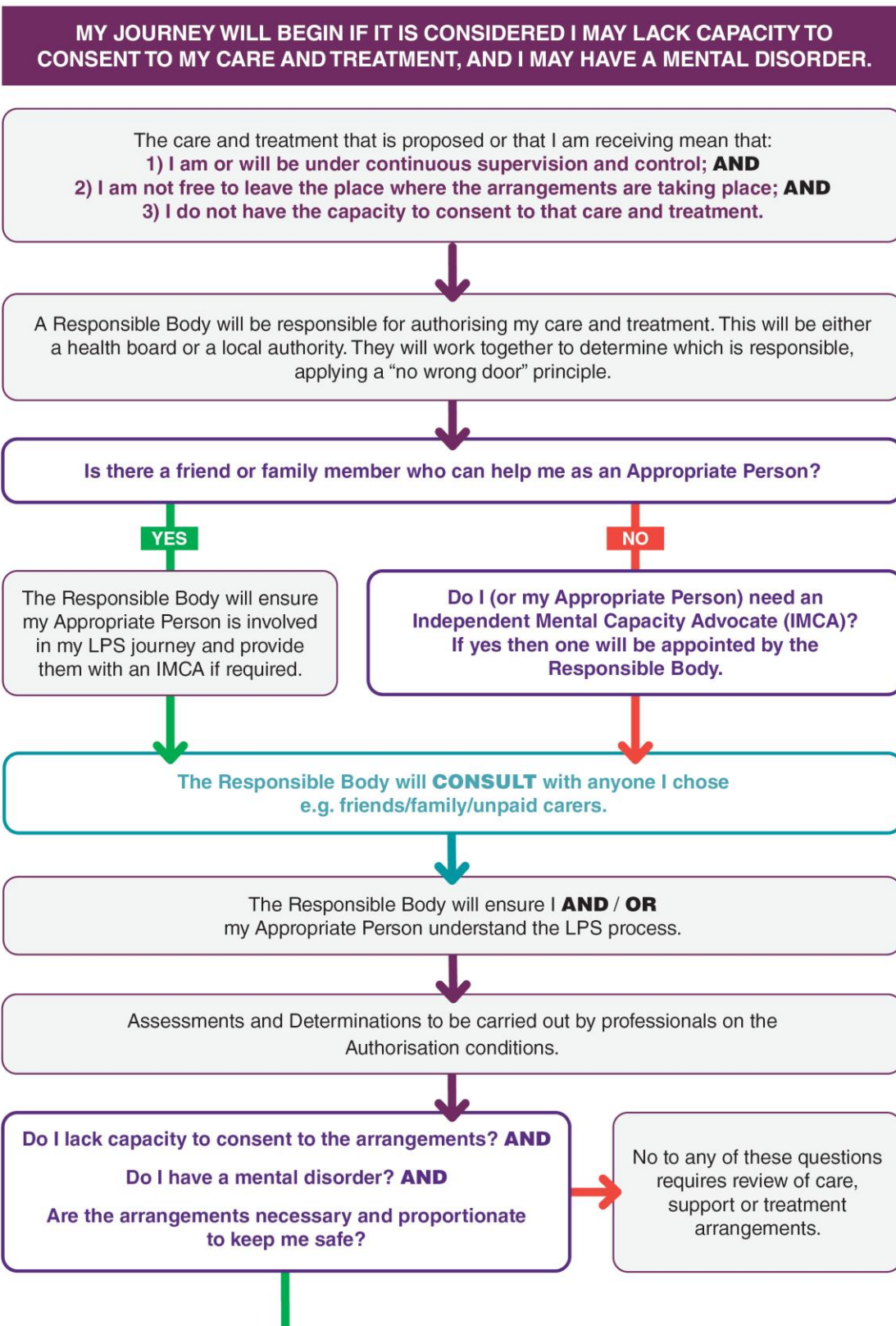
The LPS will cover a wider range of settings than just hospitals and care homes, providing protections to people receiving care, support or treatment in their own homes or in private accommodation. This will make access to safeguards more consistent for more people.

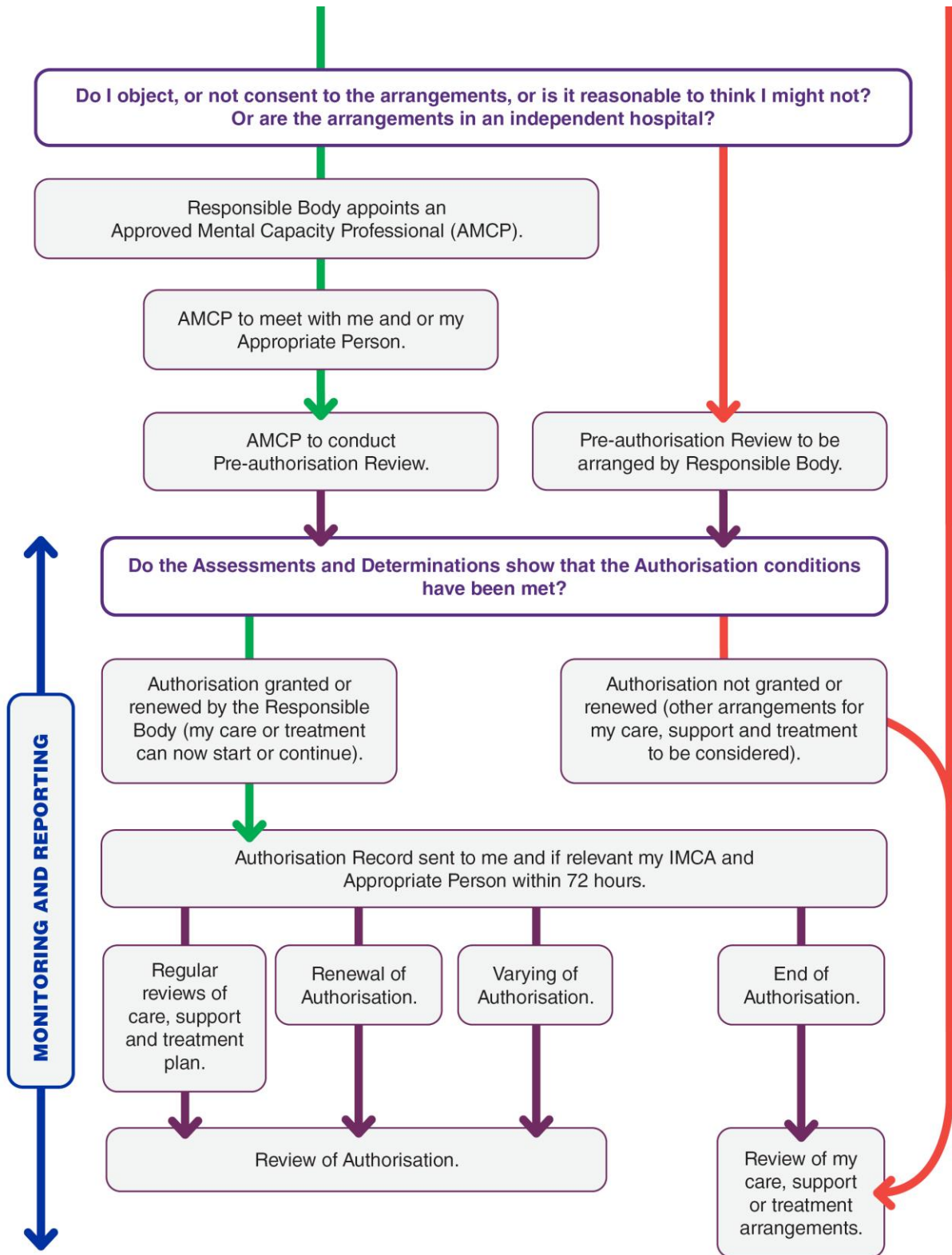
The new system has been designed to better integrate with other relevant laws and frameworks. The aim is for LPS practice to become embedded into other healthcare and care planning, such as the Social Services and Well-being (Wales) Act 2014 and the Mental Health (Wales) Measure 2010 and the Additional Learning Needs and Education Tribunal (Wales) Act 2018. This integration makes the process more straightforward for the cared-for person and those that care for them easier for relevant professionals across local health boards and local authorities, by reducing duplication.

The core principles of the MCA 2005 are at the heart of the proposed design for the LPS. This will help to further align mental capacity awareness and practice across different settings and professions. The LPS will extend safeguards to 16 and 17-year-olds. This will improve safeguards for young people. For example, a decision from the Court of Protection will no longer be needed in every case.

In Wales, health boards and local authorities will be designated as Responsible Bodies and will consider, and if appropriate, authorise arrangements. This will further help to embed person-centred planning across Responsible Bodies' activities. The number of assessments required to grant a deprivation of liberty authorisation will also be reduced from six to three, and in some cases Responsible Bodies will be able to take relevant existing evidence into account when reviewing or renewing authorisations. In some circumstances, renewed authorisations can run for three years, instead of one, as under the DoLS.

# My LPS Journey





## Summary – LPS Regulations for Wales

The implementation of the MC(A)A 2019 in Wales will be underpinned by four sets of draft Regulations. These draft Regulations must be approved by Senedd Cymru before the LPS can be implemented. They set out the legal requirements for:

- the criteria for appointment and the functions of an IMCA;
- persons carrying out assessments, determinations and pre-authorisation reviews and the definition of a financial connection for those carrying out pre-authorisation reviews;
- the criteria for appointment, continuation of appointment, and functions of an AMCP; and
- the responsibilities of CIW, HIW and Estyn to monitor and report on the operation of the LPS.

A summary of each of the draft Regulations is provided below – along with our consultation questions.<sup>9</sup>

### [The Mental Capacity Act 2005 \(Independent Mental Capacity Advocates\) \(Wales\) \(Amendment\) Regulations 2022](#)

These draft Regulations amend the Regulations for IMCAs who act under sections 37-39 of the MCA 2005. They provide the requirements for appointing IMCAs and their functions under the LPS.

IMCAs are given functions to assist the person to participate in the process, ascertain their wishes and feelings, and make representations to the Responsible Body on behalf of the person under the LPS. They are also given functions to support the person once an authorisation is in place.

A new element of the LPS is the role of the Appropriate Person, and in some cases an IMCA will also support this role. These Regulations set out the functions for the IMCA to support the Appropriate Person.

Annex 1 provides more detail on the provisions included in the draft Regulations. For additional information on the role of the IMCA under the LPS, please refer to the draft Code of Practice on LPS – which is also currently out to consultation (led by the UK Government).

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<sup>9</sup> All consultation questions are also set out in the consultation form included at the end of this document.



We are interested in your views on the following:

**Question 1:** Do you agree that the amendments to the Mental Capacity Act 2005 (Independent Mental Capacity Advocates) (Wales) Regulations 2007 clearly and sufficiently set out the functions of the IMCA under the LPS?

[The Mental Capacity \(Deprivation of Liberty: Eligibility to Carry out Assessments, Make Determinations and Carry out Pre-Authorisation Reviews\) \(Wales\) Regulations 2022](#)

These draft Regulations set out which professionals can carry out each assessment and determination, and the pre-authorisation review. Only doctors and psychologists can carry out medical assessments and determinations. Doctors, social workers, nurses, speech and language therapists, psychologists and occupational therapists can carry out all other assessments and make determinations.

Additionally, the professionals set out above must also meet general eligibility requirements such as being insured against any liabilities, having the relevant skills and experience, and having no financial interest in the person's case.

They also set out the description of a prescribed connection to a place where someone is receiving care, which applies to anyone undertaking a pre-authorisation review.

Annex 2 provides more detail on the provisions included in the draft Regulations. For additional information on carrying out assessments, determinations and pre-authorisation reviews, please refer to the draft Code of Practice on LPS – which is also currently out to consultation (led by the UK Government).

We are interested in your views on the following:

**Question 2:** Do you agree that the draft Regulations on undertaking assessments, determinations and pre-authorisation reviews are clear and sufficient?

**Question 3:** Do you agree the draft Regulations enable the relevant professionals to carry out assessments and make determinations?

**Question 4:** Do you agree that the draft Regulations relating to financial interest provide the necessary safeguards for the cared-for person?

[The Mental Capacity \(Deprivation of Liberty: Training and Criteria for Approval as an Approved Mental Capacity Professional\) \(Wales\) Regulations 2022](#)

These draft Regulations set out the criteria for AMCP training; the criteria for an individual to be approved as an AMCP; and the criteria for continuing approval. The key aspects are that:

- certain professionals can act as an AMCP;
- AMCPs will need to undertake **either** a conversion course if already a Best Interests Assessor (BIA), **or** initial training. They will also need to meet other criteria, such as having appropriate indemnity, in order to be approved as an AMCP by a local authority;
- Social Care Wales will approve the conversion training and initial training. Local authorities and Social Care Wales will be able to approve further training.<sup>10</sup>
- AMCPs can be approved by more than one local authority;
- AMCPs will need to complete 18 hours of further training annually and have carried out their functions as an AMCP to an appropriate standard for their approval to continue;
- in some circumstances, an AMCP can become exempt for the conditions for continuing approval.

Conversion training will be available to individuals who are currently working as BIAs and who have undertaken accredited or non-accredited training. This conversion training will provide the necessary learning to convert to the new AMCP role. Responsible Bodies will identify the BIAs in their area to undertake AMCP conversion training. This conversion training (approved by Social Care Wales) will only be available during the transition period, to support the initial development of the AMCP workforce.

Initial training will be available to eligible individuals who are not currently working as BIAs. The following professions are eligible for approval as an AMCP: a first level nurse; a registered social worker in the UK; a practitioner psychologist; a speech and language therapist; and an occupational therapist.

The training outcomes will contain all the learning and skills needed to undertake duties as an AMCP. This will be an accredited course approved by Social Care Wales.

Once an individual has undertaken conversion training or initial training and been approved as an AMCP, they will need to undertake a further 18 hours of training each year to maintain their approval. This further training can be approved by a local authority in Wales or Social Care Wales, and can be tailored to consider recent best practice, emerging case law and local priorities.

Annex 3 provides more detail on the provisions included in the draft Regulations. For additional information on the role of the AMCP, please refer to the draft Code of Practice on LPS – which is also currently out to consultation (led by the UK Government).

We are interested in your views on the following:

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<sup>10</sup> The Welsh Ministers may also approve conversion training. However, it is anticipated this will be done by Social Care Wales.

**Question 5:** Do you agree the draft Regulations on the role and appointment of AMCPs are clear and sufficient?

**Question 6:** Do you agree the draft Regulations enable the relevant professionals to carry out the role of the AMCP?

**Question 7:** Do you agree with the arrangements for the approval of the AMCP?

**Question 8:** There are three main types of training that will be provided for AMCPs: conversion training; initial training; and further training. Do you agree with the overall approach being taken to providing training for AMCPs?

**Question 9:** With specific reference to further training do you agree with:

- i) the proposed requirement to carry out 18 hours of further training each year?
- ii) the content of further training being non-accredited and approved by either Social Care Wales or a local authority in Wales?

**Question 10:** Do you agree the draft Regulations should enable local authorities to work together with their partners to put in place regional or national arrangements for the approval of AMCPs?

#### The Mental Capacity (Deprivation of Liberty: Monitoring and Reporting) (Wales) Regulations 2022

These draft Regulations place a duty on CIW, HIW and Estyn to monitor the operation of the LPS in Wales. To carry out this role, they provide CIW, HIW and Estyn the powers to visit settings where an LPS authorisation is taking place; access records relating to the care, support or treatment of the person the LPS applies to; meet that person (with their consent); and meet anyone caring for them or with an interest in their welfare. They also provide a duty for CIW, HIW and Estyn to regularly report on the LPS.

Where an authorised arrangement is being carried out in a private dwelling or in a part of a premises used as a private dwelling, a monitoring body must seek permission prior to visiting.

CIW, HIW and Estyn will also be developing a Monitoring and Reporting Strategy for Wales and will be engaging with stakeholders. Annex 4 provides a more detailed summary of the provisions included in the draft Regulations. For additional information on the monitoring and reporting of the LPS, please refer to the draft Code of Practice on LPS – which is also currently out to consultation (led by the UK Government).

We are interested in your views on the following:

**Question 11:** Do you agree that the draft Regulations on monitoring and reporting are clear and sufficient?

**Question 12:** Where an authorised arrangement is being carried out in a private dwelling or in a part of a premises used as a private dwelling, a monitoring body must seek permission prior to visiting. Also, a monitoring body will seek consent from the cared-for person before meeting with them. If a cared-for person does not have capacity to consent then a best interests decision will need to be taken about such a meeting. This may include the monitoring bodies. Do you agree the consent based approach we are proposing to monitoring and reporting reflects people’s rights and provides adequate safeguards?

## Broader consultation questions regarding the implementation of the LPS in Wales

In addition to the consultation questions regarding the four sets of draft Regulations for Wales, we are also interested in your views on the following:

**Question 13:** Do you agree the Regulations protect the rights of the person and service users?

**Question 14:** We are also consulting on a draft Explanatory Memorandum and Regulatory Impact Assessment (RIA) which provide estimates of the financial costs and benefits / impacts of the implementation of the LPS Regulations in Wales. Do you agree with our assessment of the financial costs and benefits / impacts of the LPS Regulations set out in the draft RIA?

**Question 15:** As part of the RIA, we have included proposed data items for the LPS National Minimum Data Set – which is currently being developed. Do you agree with the data items included in the draft LPS National Minimum Data Set for Wales?

**Question 16:** We have issued a draft Children’s Rights Impact Assessment (CRIA) for consultation alongside the draft Regulations for Wales and the draft Regulatory Impact Assessment. Do you agree with our assessment of the impacts of the LPS Regulations on children’s rights set out in the CRIA?

**Question 17:** We have also issued a draft Equalities Impact Assessment for consultation alongside the draft Regulations for Wales and the draft Regulatory Impact Assessment. Do you agree with our assessment of the impacts of the LPS Regulations on those with protected characteristics?

**Question 18:** Welsh Government is currently engaging separately on a Workforce Plan and Training Framework – and a summary of this is included in the draft RIA. Do you agree that the LPS Workforce Plan and Training Framework will promote and embed person centred planning?

**Question 19:** We have also issued a draft Welsh Language Impact Assessment for consultation alongside the draft Regulations for Wales and the draft Regulatory Impact

Assessment. Do you agree with our assessment of the impacts of the LPS Regulations on Welsh Language?

## UK Government consultation on the draft Code of Practice for the Mental Capacity Act and the Liberty Protection Safeguards

The Welsh Government is consulting on draft Regulations for Wales at the same time that the UK Government is consulting on draft Regulations for England and a supporting Code of Practice for England and Wales.

The MCA 2005 was implemented with a Code of Practice which is designed to support the Act with practical, statutory guidance, explaining how the Act operates on a day-to-day basis and offering examples of best practice to carers and practitioners. The Code of Practice now requires updating for two key reasons.

First, there has been new legislation and case law, terminology and organisational changes, and developments in ways of working and good practice since the MCA 2005 came into force in 2007.

Second, the updated Code will include new guidance for the implementation of the LPS. It is important that professionals and practitioners understand and apply the principles of the MCA 2005 into the LPS process. The aim of producing one overarching Code of Practice is to ensure the principles of the MCA 2005 are firmly embedded in the LPS from its introduction.

As the Code of Practice applies in both England and Wales – the UK Government are asking for comments from stakeholders from both nations. The UK Government will discuss any outcomes of the consultation on the draft Code of Practice relating to Wales with the Welsh Government before taking any final decisions. In addition, the UK Government will be sharing consultation responses from stakeholders in Wales on the draft Code of Practice with the Welsh Government. Welsh Government will be considering these responses in order to inform the final versions of the draft Regulations for Wales that will support implementation. We therefore encourage stakeholders in Wales to also consider the draft Code of Practice and respond to the UK Government consultation.<sup>11</sup>

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<sup>11</sup> [UK Government Consultation on the draft LPS Code of Practice](#)

## UK Government consultation on transitional Regulations and consequential amendments

The UK Government is also consulting on draft Regulations on the transitional arrangements required to allow the LPS and the DoLS to initially run side by side during the first year of the LPS implementation to ensure the smooth transition from the existing system to the new system. Amendments to other legislation is also required as a result of the MC(A)A 2019. These Regulations are:

- The Mental Capacity (Amendment) Act 2022 (Commencement, Transitional and Savings Provisions) Regulations (“the Commencement Regulations”)
- The Mental Capacity (Amendment) Act 2022(Consequential Provisions) Regulations (“the Consequential Provisions Regulations”)

The Commencement Regulations commence the provisions within the MC(A)A 2019, which will implement the LPS. They also allow for the DoLS provisions to remain in place for a year after implementation, to allow for a year of double running. No new DoLS authorisations should be given after the LPS is implemented, but the transitional year will allow for those under a DoLS authorisation to continue to access safeguards until their authorisation ends.

We would encourage stakeholders in Wales to respond to the UK Government consultation on these draft Regulations.

## Annex 1 SUMMARY: The Mental Capacity Act 2005 (Independent Mental Capacity Advocates) (Wales) (Amendment) Regulations 2022

1. The Mental Capacity (Amendment) Act 2019 (“the MC(A)A 2019”) amended the Mental Capacity Act 2005 (“MCA 2005”) to provide for a new process known as the LPS for authorising arrangements to enable the care or treatment of persons who lack capacity to consent to the arrangements, which give rise to a deprivation of their liberty.
2. In particular, the MC(A)A 2019 inserts a new Schedule AA1 to the MCA 2005 which contains the new administrative scheme for the authorisation of those arrangements (“Liberty Protection Safeguards”). The Liberty Protection Safeguards will replace the deprivation of liberty safeguards scheme set out in Schedule A1 to the MCA 2005.
3. These draft Regulations amend the Mental Capacity Act 2005 (Independent Mental Capacity Advocates) (Wales) Regulations 2007 (S.I. 2007/852 (W. 77)) (“the Principal Regulations”) in consequence of the implementation of the new system of Liberty Protection Safeguards introduced by the MC(A)A 2019.
4. Regulations 1, 3, 4, 8 and 9 of the Principal Regulations will not be amended by these Regulations and will remain in force and applicable to the role of Independent Mental Capacity Advocates (“IMCAs”).
5. These draft Regulations will make amendments to Regulations 2, 5, 6 and 7 of the Principal Regulations to ensure that persons appointed as IMCAs in the new Liberty Protection Safeguards system will be subject to the same appointment requirements as IMCAs are currently under the Principal Regulations and that those so appointed will be authorised to carry out functions appropriate to the requirements imposed by the MC(A)A 2019.
6. Regulation 2 (interpretation) of the Principal Regulations currently sets out definitions for a number of terms used in and throughout the Principal Regulations (such as “IMCA”, “the Act” and “local authority”). Regulation 2 will be amended to add new definitions for Schedule AA1, “arrangements” and “Responsible Body”.
7. Regulation 2 of the Principal Regulations also sets out that any reference to the instruction of an IMCA is intended to mean instructions under sections 37, 38, 39, 39A, 39C and 39D of the MCA 2005. Under those sections an IMCA must be instructed if:
  - serious medical treatment or long term accommodation in a hospital or care home by the NHS or residential care by a local authority is proposed (sections 37-39)
  - a person becomes “subject to” the DoLs and there is no person (other than a professional or paid carer) to consult in determining a person’s best interests (section 39A);

- when the appointment of a relevant persons representative comes to an end and there is no one (other than a professional or paid carer) to consult in determining the person’s best interests (section 39C);
  - an authorisation is in place and the person subject to the authorisation or their representative makes a request for an IMCA or if it appears to the supervisory body that an IMCA is necessary (section 39D).
8. Regulation 2 will also be amended to remove reference to section 39A, 39C and 39D of the 2005 Act (see paragraphs 7(b), (c) and (d) above) as these will be revoked by the MC(A)A 2019. These references will be replaced with reference to Schedule AA1 which will set out the requirements for the instruction of IMCA under the Liberty Protection Safeguards.
  9. Regulation 5 (appointment of independent mental capacity advocates) of the Principal Regulations provides that a local health board (“LHB”) must make arrangements to make available IMCAs to residents in its area and sets out the appointment requirements including experience, training, good character and independence. These draft Regulations will make minor technical changes to reflect the transfer of the functions of the Assembly to the Welsh Ministers under paragraph 30(1) of Schedule 11 to the Government of Wales Act 2006 (c. 32) and to reflect the revocation of section 39A, 39C and 39D to the MCA 2005.
  10. Regulation 6 (functions of an independent mental capacity advocate) of the Principal Regulations will be amended to clarify that in addition to instructions by a local health board or local authority under section 37-39 of the MCA 2005, an IMCA may also be instructed by a Responsible Body under the new Schedule AA1. The amendments in particular insert a new paragraph (8) which applies only in respect of an IMCA instructed by a Responsible Body in a case to which paragraph 42 of Part 5 of Schedule AA1 applies. Paragraph 42 relates to where a person has capacity and has requested an IMCA or where a person does not have capacity (unless the Responsible Body considers it would not be in the person’s best interests). The amendments set out the IMCA’s functions, if appointed under paragraph 42 of Schedule AA1.
  11. These draft Regulations amend Regulation 7 of the Principal Regulations (challenges to decisions affecting persons who lack capacity) by inserting a new paragraph (3) which applies to IMCAs appointed under paragraph 42 of Schedule AA1. The new Regulation 7(3) sets out that an IMCA may make representations to a person carrying out a pre-authorisation review, assist the cared-for person in requesting a review, make representations to secure the cared-for person’s rights in relation to arrangements or proposed arrangements as the case may be and to make an application to the Court of Protection, or assist the cared-for person to make one.



## Annex 2 SUMMARY: The Mental Capacity (Deprivation of Liberty: Eligibility to Carry out Assessments, Make Determinations and Carry out Pre-Authorisation Reviews) (Wales) Regulations 2022

1. The Mental Capacity (Amendment) Act 2019 (“the MC(A)A 2019”) amended the Mental Capacity Act 2005 (“MCA 2005”) to provide for a new process known as the LPS for authorising arrangements to enable the care or treatment of persons who lack capacity to consent to the arrangements, which give rise to a deprivation of their liberty.
2. In particular, the MC(A)A 2019 inserts a new Schedule AA1 to the MCA 2005 which contains the new administrative scheme for the authorisation of those arrangements (“Liberty Protection Safeguards”). The Liberty Protection Safeguards will replace the deprivation of liberty safeguards scheme set out in Schedule A1 to the MCA 2005.
3. An arrangement which gives rise to a deprivation of liberty must be authorised by a Responsible Body (a local authority or local health board in Wales).
4. In order for the Responsible Body to reach a decision on authorisation there needs to be an assessment and a determination made to establish whether the following three authorisation conditions are met:
  - the person in respect of whom those arrangements are proposed must lack capacity to consent to the arrangements;
  - the person has a mental disorder; and
  - the arrangements are necessary to prevent harm to the person and are proportionate in relation to the likelihood and seriousness of harm to them.
5. The draft Mental Capacity (Deprivation of Liberty: Eligibility to Carry out Assessments, Make Determinations and Carry out Pre-Authorisation Reviews) (Wales) Regulations set out the eligibility requirements for a person to carry out the following assessments:
  - an assessment as to whether a person lacks capacity to consent to the arrangements (*“a capacity assessment”*);
  - an assessment as to whether a person has a mental disorder (*“a medical assessment”*); and
  - an assessment that the arrangements are necessary to prevent harm to the person and are proportionate in relation to the likelihood and seriousness of harm to the person (*“a necessary and proportionate assessment”*).

## General Eligibility Requirements

6. The general eligibility requirements for assessments and determinations include ensuring that any person carrying out any of the three assessments:
  - is insured in respect of any liabilities that might arise in connection with carrying out the assessment;
  - has the skills and experience appropriate to the assessment to be carried out including applied knowledge of the MCA 2005 and the Code of Practice;
  - has the ability to keep appropriate records and to provide clear and reasoned reports in accordance with legal requirements and good practice;
  - has an enhanced criminal record certificate check completed;
  - is not a relative of the person in respect of whom the assessment is being carried out;
  - does not have any financial interest in the care of the person, or is not a relative of a person who is financially interested in the care of the person.

## Capacity Eligibility Requirements

7. Additional eligibility requirements which apply for the capacity assessment and determination include the need for that person to be a doctor, nurse, occupational therapist, social worker, practitioner psychologist or speech and language therapist appropriately registered with (and not suspended from) the appropriate regulatory body (for example the Health and Care Professions Council). The assessment and the determination do not need to be undertaken by the same person.

## Medical Eligibility Requirements

8. Additional eligibility requirements apply for the medical assessment and determination which includes the need for that person to be either a registered medical practitioner or a practitioner psychologist. The assessment and the determination do not need to be undertaken by the same person.

## Necessary and Proportionate Eligibility Requirements

9. For a necessary and proportionate assessment and determination, eligibility criteria include the need for that person to be a doctor, nurse, occupational therapist, social worker, practitioner psychologist or speech and language therapist appropriately registered with (and not suspended from) the appropriate regulatory body (for example the Health and Care Professions Council). In addition they must also have the skills necessary to obtain, evaluate and analyse complex evidence and differing views and to weigh them appropriately in decision making. Unlike for the capacity or medical assessments, the same person undertaking the assessment must undertake the determination.

## Pre-Authorisation Review

10. Once all three assessments are complete, a person who is not involved in the day-to-day care of, or in providing any treatment to, the person, and who does not have a prescribed connection with a care home, must carry out a pre-authorisation review. A pre-authorisation review is a review that must be carried out to determine whether the authorisation conditions are met in respect of proposed arrangements or whether it is reasonable for a body to conclude that the authorisation conditions are met (see paragraph 3 above). These draft Regulations also prescribe the circumstances in which a person will have a connection to a care home for the purpose of a pre-authorisation review which include their roles and responsibilities at that care home (or a company connected with that care home), is a member of the governing body of that care home, or has a financial interest in that care home. The draft Regulations also define the term “financial interest”.

## Annex 3 SUMMARY: The Mental Capacity (Deprivation of Liberty: Training and Criteria for Approval as an Approved Mental Capacity Professional) (Wales) Regulations 2022

1. The Mental Capacity (Amendment) Act 2019 (“the MC(A)A 2019”) amended the Mental Capacity Act 2005 (“MCA 2005”) to provide for a new process known as the LPS for authorising arrangements to enable the care or treatment of persons who lack capacity to consent to the arrangements, which give rise to a deprivation of their liberty.
2. In particular, the MC(A)A 2019 inserts a new Schedule AA1 to the MCA 2005 which contains the new administrative scheme for the authorisation of those arrangements (“Liberty Protection Safeguards”). The Liberty Protection Safeguards will replace the deprivation of liberty safeguards scheme set out in Schedule A1 to the MCA 2005.
3. An arrangement which gives rise to a deprivation of liberty must be authorised by a Responsible Body (typically a local authority or local health board in Wales).
4. Before such arrangements can be authorised, a pre-authorisation review must be carried out to determine whether the authorisation conditions are met or whether it is reasonable to conclude that the authorisation conditions are met. In certain circumstances this pre-authorisation review must be carried out by an Approved Mental Capacity Professional (AMCP). In certain circumstances an AMCP will also determine whether authorisation conditions are met upon a review of the arrangements (see paragraphs 3 and 9 of Annex 2).
5. These draft Regulations:
  - set out the criteria which must be met by a person eligible for approval by a local authority in Wales as an AMCP. The following professions are eligible for approval as an AMCP:
    - i. a first level nurse
    - ii. a registered social worker in the UK
    - iii. a practitioner psychologist
    - iv. a speech and language therapist or
    - v. an occupational therapist
  - specify the matters that a local authority must take into account before approving a person as an AMCP. This includes the local authority being satisfied that the person has an applied knowledge of the 2005 Mental Capacity Act and the Code of Practice; the ability to keep appropriate records and provide clear and reasoned reports in accordance with legal requirements and good practice; and has knowledge of best practice in relation to arrangements in Wales;

- set out the arrangements for training that an individual must have completed before approval as an AMCP. Current active BIAs can receive conversion training, which will be non-accredited but approved by Social Care Wales. New AMCPs who are not currently BIAs will need to complete initial training, which will be an accredited course;
  - set out the criteria for continuing approval, including confirming the amount of training an AMCP must undertake each year (18 hours). Further training must be approved by either the approving local authority or Social Care Wales;
  - set out the criteria for exemptions from the requirement to undertake further training, including the requirements a person who has received an exemption must satisfy in order to carry out functions as an AMCP;
  - set out the circumstances when a person's approval as an AMCP will be suspended/end, and how the end of a suspension will be managed;
  - set out who can approve training for AMCPs in Wales and who can approve courses which will enable persons who are Best Interests Assessors under DoLS to become AMCPs; and
  - enable a local authority to approve a Best Interests Assessor as an AMCP providing that certain conditions are met.
6. AMCPs in Wales may be approved by more than one local authority and local authorities may agree for AMCPs to be approved by one local authority on behalf of a number of local authorities. This will allow AMCPs to work across multiple local authority and health board areas. Each local authority is, however, responsible for ensuring there is a sufficient number of AMCPs for its area. Workforce planning locally should determine the approach to determining and managing AMCP capacity.

## Annex 4 SUMMARY: The Mental Capacity (Deprivation of Liberty: Monitoring and Reporting) (Wales) Regulations 2022

1. The Mental Capacity (Amendment) Act 2019 (“the MC(A)A 2019”) amended the Mental Capacity Act 2005 (“MCA 2005”) to provide for a new process known as the LPS for authorising arrangements to enable the care or treatment of persons who lack capacity to consent to the arrangements, which give rise to a deprivation of their liberty.
2. In particular, the MC(A)A 2019 inserts a new Schedule AA1 to the MCA 2005 which contains the new administrative scheme for the authorisation of those arrangements (“Liberty Protection Safeguards”). The Liberty Protection Safeguards will replace the deprivation of liberty safeguards scheme set out in Schedule A1 to the MCA 2005.
3. These draft Regulations make provision for the monitoring of and the reporting on the operation of Schedule AA1 in relation to Wales.
4. The Regulations define a “relevant monitoring body”. The relevant monitoring body in the case of a person in a social care setting will be Care Inspectorate Wales and in a health care setting it will be Healthcare Inspectorate Wales. If the person is aged 16 or 17 or in receipt of educational provision under the Additional Learning Needs and Education Act 2018 the relevant monitoring body will be the Chief Inspector of Education and Training in Wales, along with CIW or HIW.
5. The relevant monitoring body must monitor and report on the Liberty Protection Safeguards in relation to Wales. The relevant monitoring bodies may work together to meet their duties to monitor and report on the operation of the Liberty Protection Safeguards. Monitoring bodies may seek assistance from another monitoring body for the purpose of their duty to monitor and report on the LPS if they think that such assistance will:
  - a) have a positive effect on the manner in which the monitoring body carries out its duty; or
  - b) assist the monitoring body in achieving its duty.
6. There is also a duty placed on monitoring bodies to comply with any request made for assistance by another monitoring body unless it is either prevented by law, or if it would be incompatible with its own duty to monitor and report or if assistance would have an adverse effect on its own duty to monitor and report.
7. If requested to do so by the Welsh Ministers, a relevant monitoring body may produce a joint report with another relevant monitoring body on the operation of the Liberty Protection Safeguards.
8. These draft Regulations will confer certain powers on the relevant monitoring body in connection with their monitoring and reporting duties. These powers will enable the

relevant monitoring body to visit any place where an authorised arrangement is being carried out; meet with a cared-for person; require the production of, and inspect, records relating to the care or treatment of a cared-for person; and also meet with a person engaged in caring for a cared-for person or a person interested in a cared-for person's welfare.

9. In Wales there is specific provision so that where an authorised arrangement is being carried out in a private dwelling or in a part of a premises used as a private dwelling, a monitoring body must seek permission prior to visiting.
10. A monitoring body may meet with a cared-for person if that person consents to meeting with the monitoring body. If they do not have capacity to consent then a best interest decision needs to be taken by either an attorney under a Lasting Power of Attorney or deputy appointed by the Court of Protection, who has the relevant authority. If there is no such person, anyone involved in caring for or interested in the person's welfare can, in consultation with others and having regard to the requirements of the MCA 2005, make a best interests decision. This may include the monitoring bodies.
11. Meetings with the cared-for person may be held at the place where the authorisation is being carried out or at any other place and are in line with the views, wishes and feelings of the individual (for example if the cared-for person requests that the meeting be held in private, then the relevant monitoring body must conduct that meeting in private).
12. The Responsible Body which authorises an arrangement must notify a relevant monitoring body of any instances where it authorises, renews or varies an authorised arrangement and when an authorised arrangement ends. Notifications must be made within the timescales agreed. In Wales, these timescales will be set out as part of a national LPS Monitoring and Reporting Strategy which is published alongside this consultation. The Monitoring Bodies can also request certain data from the Responsible Body for the purpose of carrying out its functions.

Consultation  
Response  
Form

Your name:

Organisation (if applicable):

Email / telephone number:

Your address:

**CONSULTATION QUESTIONS:**

**The Mental Capacity Act 2005 (Independent Mental Capacity Advocates) (Wales) (Amendment) Regulations 2022**

**Question 1:** Do you agree that the amendments to the Mental Capacity Act 2005 (Independent Mental Capacity Advocates) (Wales) Regulations 2007 clearly and sufficiently set out the functions of the IMCA under the LPS?

**Strongly Agree**

**Somewhat Agree**

**Neither Agree nor Disagree**

**Somewhat Disagree**

**Strongly Disagree**

If there is information you would like to provide that supports your response to question 1, please include this here.



**The Mental Capacity (Deprivation of Liberty: Eligibility to Carry out Assessments, Make Determinations and Carry out Pre-Authorisation Reviews) (Wales) Regulations 2022**

**Question 2:** Do you agree that the draft Regulations on undertaking assessments, determinations and pre-authorisation reviews are clear and sufficient?

**Strongly Agree**

**Somewhat Agree**

**Neither Agree nor Disagree**

**Somewhat Disagree**

**Strongly Disagree**

If there is information you would like to provide that supports your response to question 2, please include this here.

**Question 3:** Do you agree the draft Regulations enable the relevant professionals to carry out assessments and make determinations?

**Strongly Agree**

**Somewhat Agree**

**Neither Agree nor Disagree**

**Somewhat Disagree**

**Strongly Disagree**

If there is information you would like to provide that supports your response to question 3, please include this here.

**Question 4:** Do you agree that the draft Regulations relating to financial interest provide the necessary safeguards for the cared-for person?

**Strongly Agree**

**Somewhat Agree**

**Neither Agree nor Disagree**

**Somewhat Disagree**

**Strongly Disagree**

If there is information you would like to provide that supports your response to question 4, please include this here.

**The Mental Capacity (Deprivation of Liberty: Training and Criteria for Approval as an Approved Mental Capacity Professional) (Wales) Regulations 2022**

**Question 5:** Do you agree the draft Regulations on the role and appointment of AMCPs are clear and sufficient?

**Strongly Agree**

**Somewhat Agree**

**Neither Agree nor Disagree**

**Somewhat Disagree**

**Strongly Disagree**

If there is information you would like to provide that supports your response to question 5, please include this here.

**Question 6:** Do you agree the draft Regulations enable the relevant professionals to carry out the role of the AMCP?

**Strongly Agree**

**Somewhat Agree**

**Neither Agree nor Disagree**

**Somewhat Disagree**

**Strongly Disagree**

If there is information you would like to provide that supports your response to question 6, please include this here.

**Question 7:** Do you agree with the arrangements for the approval of the AMCP?

**Strongly Agree**

**Somewhat Agree**

**Neither Agree nor Disagree**

**Somewhat Disagree**

**Strongly Disagree**

If there is information you would like to provide that supports your response to question 7, please include this here.

**Question 8:** There are three main types of training that will be provided for AMCPs: conversion training; initial training; and further training. Do you agree with the overall approach being taken to providing training for AMCPs?

- Strongly Agree**
  
- Somewhat Agree**
  
- Neither Agree nor Disagree**
  
- Somewhat Disagree**
  
- Strongly Disagree**

If there is information you would like to provide that supports your response to question 8, please include this here.

**Question 9:** With specific reference to further training do you agree with:

i. the proposed requirement to carry out 18 hours of further training each year?

**Strongly Agree**

**Somewhat Agree**

**Neither Agree nor Disagree**

**Somewhat Disagree**

**Strongly Disagree**

ii. the content of further training being non-accredited and approved by either Social Care Wales or a local authority in Wales?

**Strongly Agree**

**Somewhat Agree**

**Neither Agree nor Disagree**

**Somewhat Disagree**

**Strongly Disagree**

If there is information you would like to provide that supports your response to question 9, please include this here.

**Question 10:** Do you agree the draft Regulations should enable local authorities to work together with their partners to put in place regional or national arrangements for the approval of AMCPs?

**Strongly Agree**

**Somewhat Agree**

**Neither Agree nor Disagree**

**Somewhat Disagree**

**Strongly Disagree**

If there is information you would like to provide that supports your response to question 10, please include this here.

**The Mental Capacity (Deprivation of Liberty: Monitoring and Reporting) (Wales) Regulations 2022**

**Question 11:** Do you agree that the draft Regulations on monitoring and reporting are clear and sufficient?

**Strongly Agree**

**Somewhat Agree**

**Neither Agree nor Disagree**

**Somewhat Disagree**

**Strongly Disagree**

If there is information you would like to provide that supports your response to question 11, please include this here.



**Question 12:** Where an authorised arrangement is being carried out in a private dwelling or in a part of a premises used as a private dwelling, a monitoring body must seek permission prior to visiting. Also, a monitoring body will seek consent from the care-for person before meeting with them. If a cared-for person does not have capacity to consent then a best interests decision will need to be taken about such a meeting. This may include the monitoring bodies. Do you agree the consent based approach we are proposing to monitoring and reporting reflect people’s rights and provide adequate safeguards?

**Strongly Agree**

**Somewhat Agree**

**Neither Agree nor Disagree**

**Somewhat Disagree**

**Strongly Disagree**

If there is information you would like to provide that supports your response to question 12, please include this here.

**Broader consultation questions regarding the implementation of the LPS in Wales**

**Question 13:** Do you agree the Regulations protect the rights of the person and service users?

**Strongly Agree**

**Somewhat Agree**

**Neither Agree nor Disagree**

**Somewhat Disagree**

**Strongly Disagree**

If there is information you would like to provide that supports your response to question 13, please include this here.

**Question 14:** We are also consulting on a draft Explanatory Memorandum and Regulatory Impact Assessment (RIA) which provide estimates of the financial costs and benefits / impacts of the implementation of the LPS Regulations in Wales. Do you agree with our assessment of the financial costs and benefits / impacts of the LPS Regulations set out in the draft RIA?

**Strongly Agree**

**Somewhat Agree**

**Neither Agree nor Disagree**

**Somewhat Disagree**

**Strongly Disagree**

If there is information you would like to provide that supports your response to question 14, please include this here.

**Question 15:** As part of the RIA, we have included proposed data items for the LPS National Minimum Data Set – which is currently being developed. Do you agree with the data items included in the draft LPS National Minimum Data Set for Wales?

**Strongly Agree**

**Somewhat Agree**

**Neither Agree nor Disagree**

**Somewhat Disagree**

**Strongly Disagree**

If there is information you would like to provide that supports your response to question 15, please include this here.

**Question 16:** We have issued a draft Children’s Rights Impact Assessment (CRIA) for consultation alongside the draft Regulations for Wales and the draft Regulatory Impact Assessment. Do you agree with our assessment of the impacts of the LPS Regulations on children’s rights set out in the CRIA?

**Strongly Agree**

**Somewhat Agree**

**Neither Agree nor Disagree**

**Somewhat Disagree**

**Strongly Disagree**

If there is information you would like to provide that supports your response to question 16, please include this here.

**Question 17:** We have also issued a draft Equalities Impact Assessment for consultation alongside the draft Regulations for Wales and the draft Regulatory Impact Assessment. Do you agree with our assessment of the impacts of the LPS Regulations on those with protected characteristics?

**Strongly Agree**

**Somewhat Agree**

**Neither Agree nor Disagree**

**Somewhat Disagree**

**Strongly Disagree**

If there is information you would like to provide that supports your response to question 17, please include this here.

**Question 18:** Welsh Government is currently engaging separately on a Workforce Plan and Training Framework – and a summary of this is included in the RIA. Do you agree that the LPS Workforce Plan and Training Framework will promote and embed person centred planning?

**Strongly Agree**

**Somewhat Agree**

**Neither Agree nor Disagree**

**Somewhat Disagree**

**Strongly Disagree**

If there is information you would like to provide that supports your response to question 18, please include this here.

**Question 19:** We have also issued a draft Welsh Language Impact Assessment for consultation alongside the draft Regulations for Wales and the draft Regulatory Impact Assessment. Do you agree with our assessment of the impacts of the LPS Regulations on Welsh Language?

**Strongly Agree**

**Somewhat Agree**

**Neither Agree nor Disagree**

**Somewhat Disagree**

**Strongly Disagree**

If there is information you would like to provide that supports your response to question 19, please include this here.

**Question 20:** We would like to know your views on the effects that the draft Regulations for Wales supporting the implementation of LPS would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English. What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

**Question 21:** Please also explain how you believe the proposed draft Regulations could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

**Question 22:** We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them:

Please enter here:

**Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:**