Mental Capacity (Amendment) Bill

Illustrative person journeys under DoLS v Liberty Protection Safeguards
A typical user journey within DoLS: What is the problem with the current system?

Sarah is 82, lives on her own.

Her adult daughter helps where she can.

She was found wandering one night -diagnosed with dementia.

Her daughter could no longer look after her and social services were involved.

Sarah couldn't live safely at home so move to a Care Home.

Six Tests: Is the move in her Best Interests? Age, 'eligibility', best interest, mental health, mental capacity, 'no refusals'. 100% seen by Best Interest Assessor. Should engage family&carers, doesn't always happen.

Application for DoLS Authorisation.

Sarah couldn't live safely at home so move to a Care Home.

Application for DoLS Authorisation.

Six Tests: Age, eligibility, best interest, mental health, mental capacity, no refusals.

Further application for DoLS authorisation.

If Sarah objects, she can take her case to the Court of Protection.

Six Tests: Age, eligibility, best interest, mental health, mental capacity, no refusals.

Full review next year and every year after.

Planned admission to hospital.

If Sarah objects, she can take her case to the Court of Protection.

Six Tests: Age, eligibility, best interest, mental health, mental capacity, no refusals.

Full review next year and every year after.

If Sarah objects, she can take her case to the Court of Protection.

Six Tests: Age, eligibility, best interest, mental health, mental capacity, no refusals.

Full review next year and every year after.

If Sarah objects, she can take her case to the Court of Protection.

Six Tests: Age, eligibility, best interest, mental health, mental capacity, no refusals.

Full review next year and every year after.

If Sarah objects, she can take her case to the Court of Protection.

Six Tests: Age, eligibility, best interest, mental health, mental capacity, no refusals.

Full review next year and every year after.

If Sarah objects, she can take her case to the Court of Protection.
What will be a typical user journey under LPS?

'Sarah’s’ experience under liberty protection safeguards would be better: more streamlined and strengthens her voice in care planning.

Hospital stay required

LPS applies to arrangements, application
Includes hospital admission

Change: Three Tests
Medical, capacity, necessary and proportionate. Previous assessments utilised

Change: Application for LPS arrangements completed by care home BEFORE her move. IMCA or appropriate person involved. Reviewed by local authority

Best Interests decision under MCA: care and treatment to be provided

An objection? Referred to Approved Mental Capacity Practitioner (AMCP) for review who will meet with person and consult others

Change: consultation with everyone who has interest in care

Change: Renewed next year... then every three years after

Change: Three Tests: Medical, mental capacity, Necessary and Proportionate

Streamlined, simpler, strengthen person’s role, removes duplication by encouraging use of pre-existing information.