

The review of the deprivation of liberty safeguards

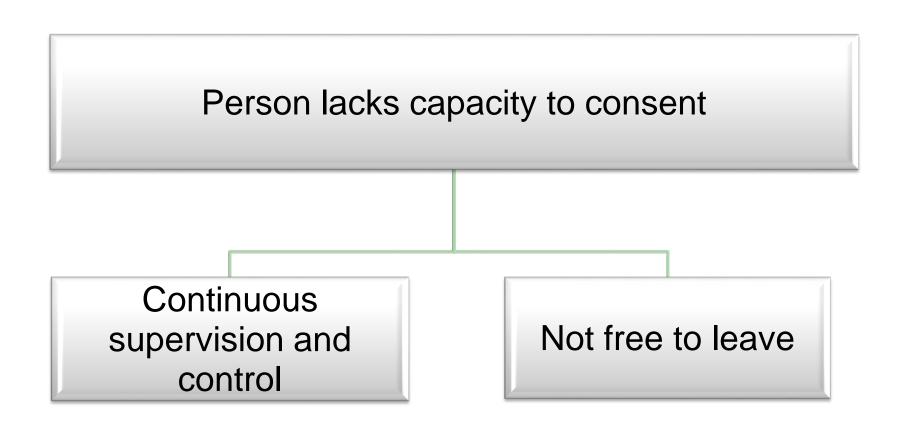
Tim Spencer-Lane

House of Lords PLS Committee Report

"The level and breath of criticism of the deprivation of liberty safeguards, including from the judiciary, demonstrates that the legislation is not fit for purpose. Better implementation would not be sufficient to address the fundamental problems identified."

The "Acid Test"

P v Cheshire West & Chester Council, P & Q v Surrey CC [2014] UKSC 19



Timetable for the Review

Stage 1:	Pre	consultation
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Stage 2: Public Consultation

7 July 2015	Publication of consultation paper
July to October 2015	4 month public consultation

Stage 3: Final Report and Draft Bill

Publication by the end of 2016

Legislation introduced in the next session of Parliament?

Protective Care

Remit of Protective Care

- Care homes, supportive living, extra-care housing and shared lives arrangements
- Hospitals and palliative care
- Domestic and family settings
- Mental health care and treatment
- 16 and 17 year olds

Summary of Protective Care

- Early safeguards when a placement or move is being considered
- Authorisation for "restrictive care", including deprivation of liberty
- Authorisation for deprivation of liberty in domestic settings
- Separate hospital scheme
- Amendments to MHA to allow admission of incapacitated patients for psychiatric care

Other key areas

New legal supported Reform of the best decision-making scheme interests check-list Consolidation of Ability to consent to a future deprivation of liberty advocacy Reform of coroners Is a new criminal legislation offence needed? Regulation by CQC, New codes of practice for **CSSIW** and HIW the replacement DOLS scheme and MCA

Key issues at consultation

- terminology is extremely important
- scale of the problem post-Cheshire West
- Cheshire West divides opinion
- lack of awareness of Mental Capacity Act and failure to implement it
- limited awareness of the UN disability convention
- devolution is an important consideration

Key issues at consultation

- the authorisation of DOL in domestic settings
- mixed views on the new AMCP role
- professionalism versus legalism
- support for tribunals and the proposed MHA interface
- the position of 16 and 17 year olds



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