

**OFFICER DELEGATION SCHEME
RECORD OF DECISION**



TO BE UPLOADED TO THE INTERNET BY DEMOCRATIC SERVICES

Date: 22/07/2022	Ref No: 2118
Responsible Officer: Beverley Johnson	
Type of Decision (please refer to MO Guidance):	
Key <input type="checkbox"/>	Non-Key <input checked="" type="checkbox"/>
Freedom of Information Status: <i>(can the report go in the public domain)</i>	
Yes	
Title/Subject matter:	
Deprivation of Liberty (DoL's) Team - Change of Establishment – addition of Team Manger post	
Budget/Strategy/Policy/Compliance:	
(i) Is the decision within an Approved Budget?	Yes
(ii) Is the decision in conflict with the council's policies, strategies or relevant service plans?	no
(iii) Does the decision amend existing or raise new policy issues?	no
(iv) Is the decision significant and/or does it meet the £100,000 threshold for recording?	no
Equality Impact Assessment [Does this decision change policy, procedure or working practice or negatively impact on a group of people? If yes – complete EIA and summarise issues identified and recommendations – forward EIA to Corporate HR]	It has a positive impact on adults with care and support needs who lack mental capacity to make complex decisions on residing in 24 hour care or receiving such a degree of care and support subjects them to being under continuous supervision and control and not free to leave, as defined in the Deprivation of Liberty Safeguards Legislation (DoL's), a statutory function of the Council under the Mental Capacity Act 2005.

Summary:

DoL's is a Statutory Function for the council, which will be transitioning to Liberty Protection Safeguards following the introduction of new statute by the government.

This has resulted in the need to reconfigure the service to meet the new demands.

This requires the establishment of a permanent managers post which will provide leadership and operational management to an internal staff team of 3, and coordination of an external team of 15 Best Interest Assessors and 5 section 12 doctors who are commissioned by the Council to undertake assessments as part of the DoL's process.

This structure was implemented temporarily 12 months ago to ensure there was sufficient, resilient continuation of the DoL's service to enable the council to meet its statutory duties and prepare itself for transition from Deprivation of Liberty Safeguards to protection of Liberty Protection Safeguards.

Funding to establish this post has been found within existing budgets following a reconfiguration of the deprivation of liberty safeguards budget, which took place 12 months ago and therefore, this is a continuation of this.

Recommendation

- Establish grade 15 Operational Manager for DOLS/LPS service
- Carry out recruitment process as outlined below in line with council policies
- Permission is sought to extend the DoL's coordinator who is acting interim team manager honoraria payment for until the end of August to enable permanent recruitment processes to take place.

Wards affected: All, this service covers the whole of Bury.

Consultations:

Scrutiny & Review Committee Interest:

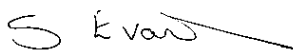

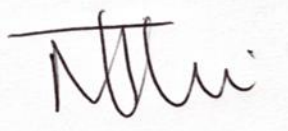

Options considered:

Decision *[with reasons]*

Decision made by:

Signature:

Date:

Director or Chief/Senior Officer		
S151 Officer		4/8/22
Director of People & Inclusion		09.08.2022
Members Consulted [see note 1 below]		
Cabinet Member		09.08.2022
Cllr Rafiq		
Cllr Tariq		12 August 2022
Lead Member		
Opposition Spokesperson		

Notes

1. Where, in accordance with the requirements of the Officer Delegation Scheme, a Chief Officer consults with the appropriate Cabinet Member they must sign the form so as to confirm that they have been consulted and that they agree with the proposed action. The signature of the Opposition Spokesperson should be obtained if required, to confirm that he/she has been consulted. Please refer to the MO Guidance.
2. **This form must not be used for urgent decisions.**
3. Where there is any doubt, Corporate Directors should err on the side of caution and seek advice from the Council's Monitoring Officer.

Background

The Mental Capacity Act Deprivation of Liberty Safeguards came into force on 1 April 2009.

The safeguards are in response to the 2004 European Court of Human Rights judgement involving an autistic man who lacked the capacity to consent who was kept at Bournemouth Hospital by doctors against the wishes of his carers. The court found that he had been deprived of his liberty unlawfully, and the Department of Health committed to introducing new legislation to close the 'Bournemouth gap'.

These safeguards provide protection for a very vulnerable group of people who are cared for in hospitals or in care homes registered under the Care Standards Act 2000, in circumstances that deprive them of their liberty, and who are unable to consent (but who are not detained under the Mental Health Act 1983).

The safeguards are designed to protect the interests of an extremely vulnerable group of service users and to:

- ensure people can be given the care they need in the least restrictive regimes
- prevent arbitrary decisions that deprive vulnerable people of their liberty
- provide safeguards for vulnerable people
- provide them with rights of challenge against unlawful detention
- avoid unnecessary bureaucracy

The Council (which for this purpose is known as a Supervisory Body) has a duty to:

- assess any person for whom the Managing Authorities request a deprivation of liberty.
- authorise a deprivation if it is necessary and in the best interests of a person to whom the Safeguards apply.
- set any necessary conditions to make sure the person's care/treatment meets their needs in their best interests.
- set a timescale for how long a deprivation can last.
- keep records of who is being deprived of their liberty.

The UK Government passed the Mental Capacity (Amendment) Act 2019, which extends to England and Wales, to replace DoLS with LPS.

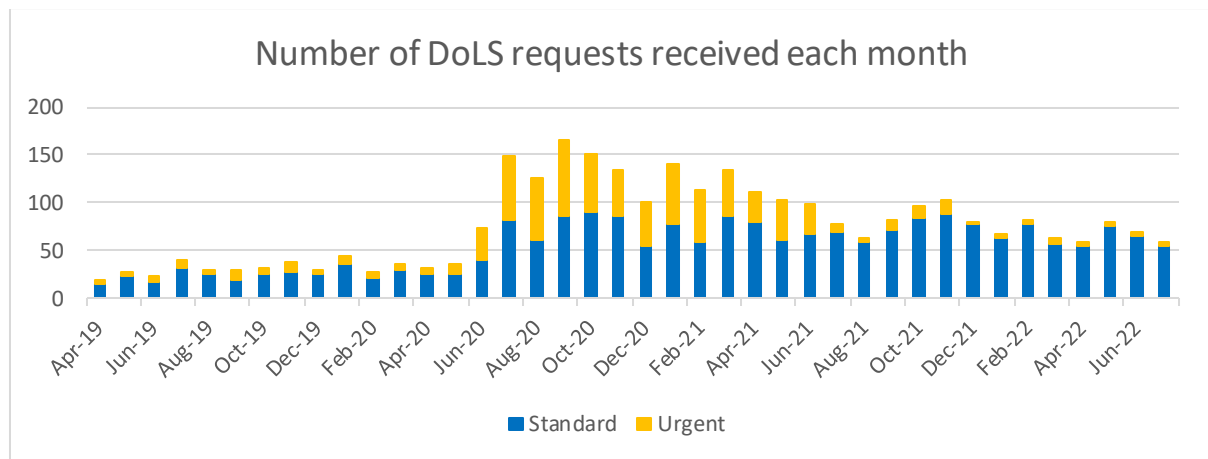
- LPS is replacing DOLS
 - Mental Capacity (Amendment) Act 2019
 - Protection under Article 5 of the European Convention
 - Due for implementation **April 2022 (delayed by Covid)**
- Rationale for change
 - DOLS is overly bureaucratic, resource-intensive, disproportionate to any benefits conferred
 - Safeguards are needed for all service users 16+ in all care settings, not just hospitals and care homes

The Liberty Protection Safeguards (LPS) will provide protection for people aged 16 and above who are, or who need to be, deprived of their liberty to enable their care or treatment, and lack the mental capacity to consent to their arrangements. People

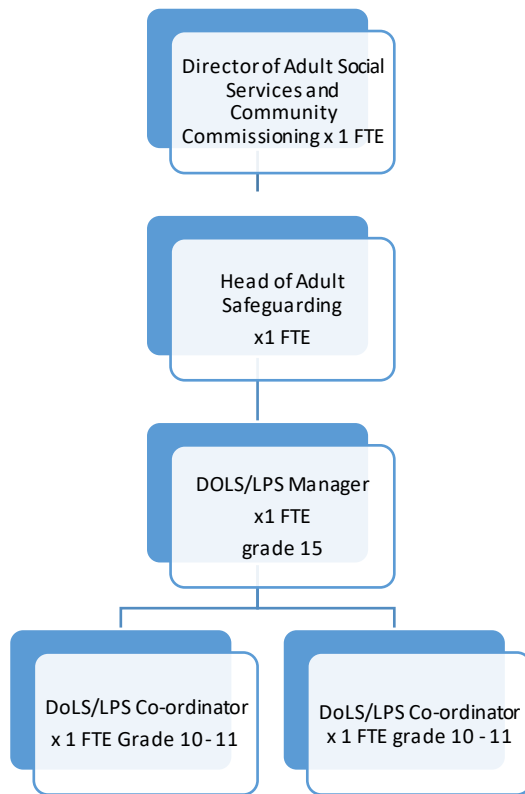
who might have a LPS authorisation include those with dementia, autism and learning disabilities who lack the relevant capacity.

LPS will replace an existing system (the Deprivation of Liberty Safeguards (DOLs)) and extend protections to more settings and people, including young people aged 16 and 17. Diverse sectors and professions will be called upon to successfully implement LPS, spanning local government, social care, and health.

The table below demonstrates the numbers of DoLs authorised, data indicate a spike during covid but a clear increase in numbers since 2019 more than doubling in 2022. The expectation is that once LPS is implemented these figures will increase again to include the community and 16 – 17yr olds. Responsible Bodies will need to complete a scoping exercise to identify numbers of clients lacking capacity who are deprived of their liberty to inform case numbers.



DOLs/LPS Team new structure



Recruitment

Following council HR policy, the Grade 15 Team Manager post will be advertised and be ringfenced to the 2 DoLs coordinators.

The recruitment will entail inviting both DoLs coordinators to express an interest in applying for the permanent team manager post in the first instance, followed by interview.

Should this fail to appoint either person a further recruitment process will follow using the Greater Jobs system external and internal.

Finance

The cost of this proposal is nil, it is the result of a reconfiguration of the existing DOLS/LPS team budget

Appendix

JOB DESCRIPTION

Post Title: Deprivation of Liberty/Liberty Protection Safeguards Team Manager (Adult Social Care)	
Department: One Commissioning Organisation	Post No:
Division/Section: Adult Safeguarding	Post Grade: grade 15 (TBC)
Location: Anywhere in the Borough of Bury	Post Hours: 37

Special Conditions of Service:

- Bury Council is piloting an agile working policy enabling all those for whom the nature of their role allow to:
- operate flexibly between home, office and other workplaces and with the benefit of digital communications, rather than routinely maintaining traditional, fixed office bases.
- access the benefit of the council’s existing, complementary flexible working framework.
- Participate in all team arrangements for effectively managing the workflow.

Our Commitment to you	Our expectation from you
· Provide strong, honest and visible leadership	Listen, be open, honest and friendly
· Reward your commitment and hard work	Be efficient , flexible and professional
· Care for your health and well being	Care for your health and stay active
· Listen to you and put your ideas into action	Tell us how we can improve
· Support you to give something back	Give something back whenever you can
· Offer opportunities to learn and grow	Take opportunities to learn and grow
· Be one team, one council	Be one team, one council
· Believe in you	Believe in yourself and our borough

Accountable to: Director of Community Commissioning

Immediately Responsible to: Head of Adult Safeguarding

Immediately Responsible for: DoLS/Liberty Protection Safeguards Co-ordinators, AMCPs, business support officer

Relationships: (Internal and External)**Internal:**

All staff within the Department and across the Council including Children's Services & CCG

External:

All other statutory bodies, Northern Care Alliance, Commissioned and Non-Commissioned care providers, 3rd Sector and independent organisations. Independent Best Interests Assessors, Section 12 Doctors/Mental Health Assessors, RPRs and Advocacy services.

Control of Resources:

- Mobile phones and office equipment
- ICT equipment
- Other resources delegated to the postholder.
- Management of team budget as delegated.

Purpose and Objectives of Post:

1. The discharge of Bury Council's statutory duties regarding Deprivation of Liberty /Liberty Protection Safeguards; to manage a team to deliver the service in line with the associated standards within the Deprivation of Liberty Safeguards/Liberty Protection Safeguards legislation.
2. Responsible for the direct line management of the Deprivation of Liberty/ Liberty Protection Safeguards Co-ordinators, AMCPs and business support officer
3. To build effective partnerships with all key stakeholders, internal and external, across Bury, with the aim of supporting Social Care services to meet the statutory requirements of Deprivation of Liberty/Liberty Protection Safeguards.
4. To provide the function of DoLS/LPS Lead, giving advice and guidance to practitioners and providers with regards to Deprivation of Liberty/Liberty Protection Safeguards.
5. To champion the Mental Capacity Act, DoLS and LPS and its principles across the Health and Social Care community within Bury
6. To develop plans and implement the transfer of the Deprivation of Liberty Safeguards to Liberty Protection Safeguards, following the publication of new statutory guidance, Code of Practice and Regulations
7. To provide assurance to the council that it is meeting its statutory duty with regard to DoLS and LPS

Duties/Responsibilities:

1. To manage the day to day running of the Deprivation of Liberty/Liberty Protection Safeguards team and line manage the team of DoLS Co-ordinators/Liberty Protection Independent Reviewers.
2. Monitor, audit and quality assure the work of the team and take remedial/supporting action as and when required. Manage staff disciplinary, grievance and performance and ill health issues in line with policies and procedures.
3. Ensure all staff have regular 1:1 sessions and an Employee Development Review in accordance with organisational policy.
4. To develop, manage and implement appropriate procedures, records and guidance to effectively coordinate the utilisation of Independent Best Interest Assessors, Mental Health Assessors/Section 12 doctors and independent IMCA services. To ensure quality assurance and competence of assessor's work.
5. To recognise Deprivation of Liberty cases where there is objection, or contention and ensure that the Relevant Person's Representative is aware of their duty to instruct solicitors on behalf of 'P', to ensure application is made to the Court of Protection under section 21a MCA (2005). To inform and support Legal Services where required and maintain database of court cases and outcomes.
6. To work with the Head of Service and Principle Social worker to develop plans to implement the transfer over from Deprivation of Liberty Safeguards to Liberty Protection Safeguards. Support in planning for the necessary move away from the use of Independent Assessors to local authority Social Workers and the new AMCP role, with associated training development requirements.
7. Keep up to date on research, policy and best practice guidance regarding Mental Capacity and associated Deprivation of Liberty/Liberty Protection Safeguards, ensuring that changes in legislation and case law are understood within the Department and are reflected in internal policy, procedures and pathways. Presenting this information to internal and external partners where appropriate.
8. Responsible for budget monitoring, and financial authorisations for payment of independent DoLS Assessors, Independent IMCA services and the Appropriate Adults Service
9. To develop, maintain and be responsible for appropriate systems which support the effective discharge of team duties associated with the Deprivation of Liberty/Liberty Protection Safeguards, including, performance management and quality assurance systems.
10. To establish effective links with regional and national networks as appropriate to share learning and develop practice.

11. To provide performance and quality assurance reports for the Deprivation of Liberty/Liberty Protection Safeguards to the Head of Service for Adult Safeguarding and Community Commissioning Management Team.
12. To be responsible for the accurate collection and recording of statutory DoHSC data-set information, in relation to Deprivation of Liberty and deliver the annual report to NHS digital.
13. To develop and deliver briefing sessions to promote the understanding of the MCA (2005) and Deprivation of Liberty/Liberty Protection Safeguards.
14. Provide a response to Complaints, Freedom of Information, or Subject access requests in relation to Deprivation of Liberty Safeguards, in conjunction with the relevant complaints/FOI teams.
15. To ensure that own professional knowledge is kept up to date in order to be able to support/initiate service development within the team.
16. To manage and prioritise your own and your practitioners workloads effectively and efficiently.
17. To work flexibly and outside of normal working times to meet service requirements where needed.

Limits of Authority

Within the framework of Council and Departmental policies and instructions, and subject to the overriding authority of his/her line manager, the officer holding this post is authorised to undertake all duties appertaining to the areas of work outlined above.

ORGANISATIONAL COMPETENCIES

Confidentiality

18. Always maintain confidentiality. Implement national, corporate and departmental policies regarding confidentiality, management of sensitive information and data sharing.

Customer Care

19. To continually review, develop and improve systems, processes and services in support of the Council's pursuit of excellence in service delivery.
20. To recognise the value of its people as a resource

Developing Self and Others

21. To use processes and put processes in place to generate a learning environment.
22. To focus on the strengths and requirements of all individuals and enable them to further their skills and knowledge.
23. To actively pursue your own development.
24. To be self-aware and role model continuous self-development

Policies and Procedures

25. To adhere to procedures, policies and the values of the authority and the department
26. To adhere to all new, and changes in government initiatives as and when they are implemented
27. To demonstrate a commitment to equal opportunities and customer care.

As an employee of Bury Council you have a responsibility for, and must be committed to, safeguarding and promoting the welfare of children, young people and vulnerable adults and for ensuring that they are protected from harm.

- Bury Council is committed to equality, diversity and inclusion, and expects all staff to comply with its equality related policies/procedures, and to treat others with fairness and respect.
- The post holder is responsible for Employees Duties as specified with the Corporate and Departmental Health and Safety Policies.
- As an employee of Bury Council you should contribute to a culture that values and supports the physical and emotional wellbeing of your colleagues.

Where an employee is asked to undertake duties other than those specified directly in his/her job description, such duties shall be discussed with the employee concerned who may have his/her Trade Union Representative present if so desired. (See paragraph 203 of supplemental Conditions of Service)

Job Description prepared by:	Sign:	Date:
Agreed correct by Postholder:	Sign:	Date:
Agreed correct by Supervisor/Manager:	Sign:	Date:

