

# 11KBW

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## **The DOLS Bill** Hannah Slarks





1. How did we get here?



2. Definition of DoL



3. Liberty Protection Safeguards



4. What can we do now?

# 1. How did we get here? The problem

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Cheshire  
West



Overload of  
the system



# 1. How did we get here? Over to Parliament **11KBW**



## Courts

- Definition of DoL
- Streamlined procedure

## Government

- Referral to the Law Commission
- Draft Bill

## 2. New definition of DoL?

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Pressure  
on the  
system will  
not ease

Many  
definitional  
questions  
left  
unanswered

## 2. Definitional questions left unanswered

Can P give “valid consent”?

Does supervision require a direct line of sight?

Does supervision have to be truly continuous?



What is the relevance of someone living in their own home?

Is it right that the thing preventing the person leaving must be imputable to the State?

When can deprivation by a private individual be imputable to the State?



What about people who are free to leave permanently, but not day-to-day?

What does the control element add?

Are “not free to leave” and “under continuous supervision and control” really both separate requirements?



### 3. LPS: The process – A. Interim authorisation

Express  
authority for  
an interim DoL  
in 3  
circumstances



- Pending authorisation from the CoP
- Pending authorisation under Sch. AA1
- In an emergency



### 3. LPS: The process – B. Responsible body can authorise the DoL

Who is the responsible body?

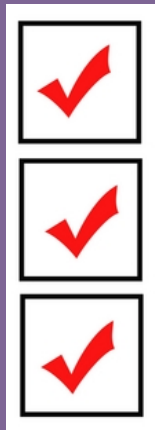


- NHS hospital manager
- CCG or local health board
- Local authority
- Care home manager

### 3. LPS: The process – C. Responsible body can authorise the DoL under Schedule AA1

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3 conditions –  
3 assessments



- Capacity
- Mental disorder
- Necessary and proportionate

### 3. LPS: The process – D. Pre-authorisation review

## Pre-authorisation review



- Person not involved in treatment or day-to-day care
- Reasonable to conclude conditions are met?
- If P objects to DoL, must be AMCP

### 3. LPS: The process – E. Safeguards after authorisation

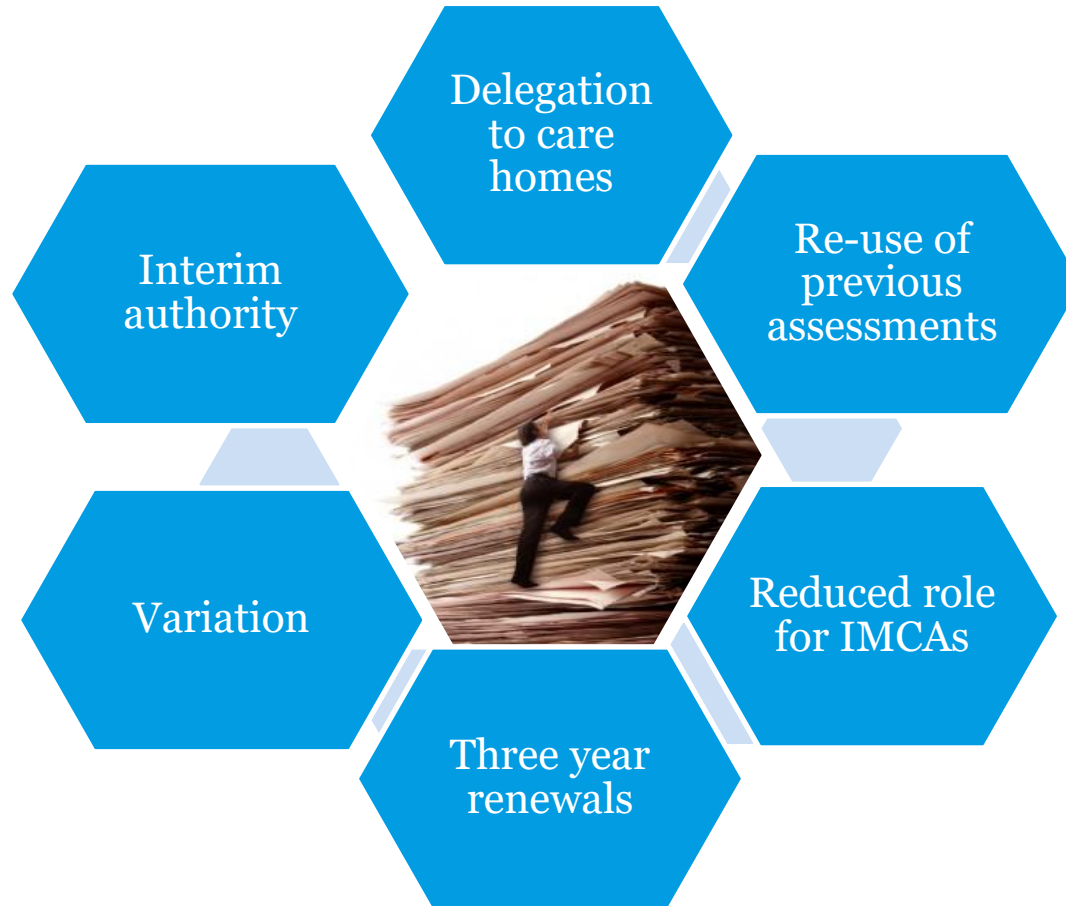
## Safeguards after authorisation



- Right to information
- CoP
- Reviews

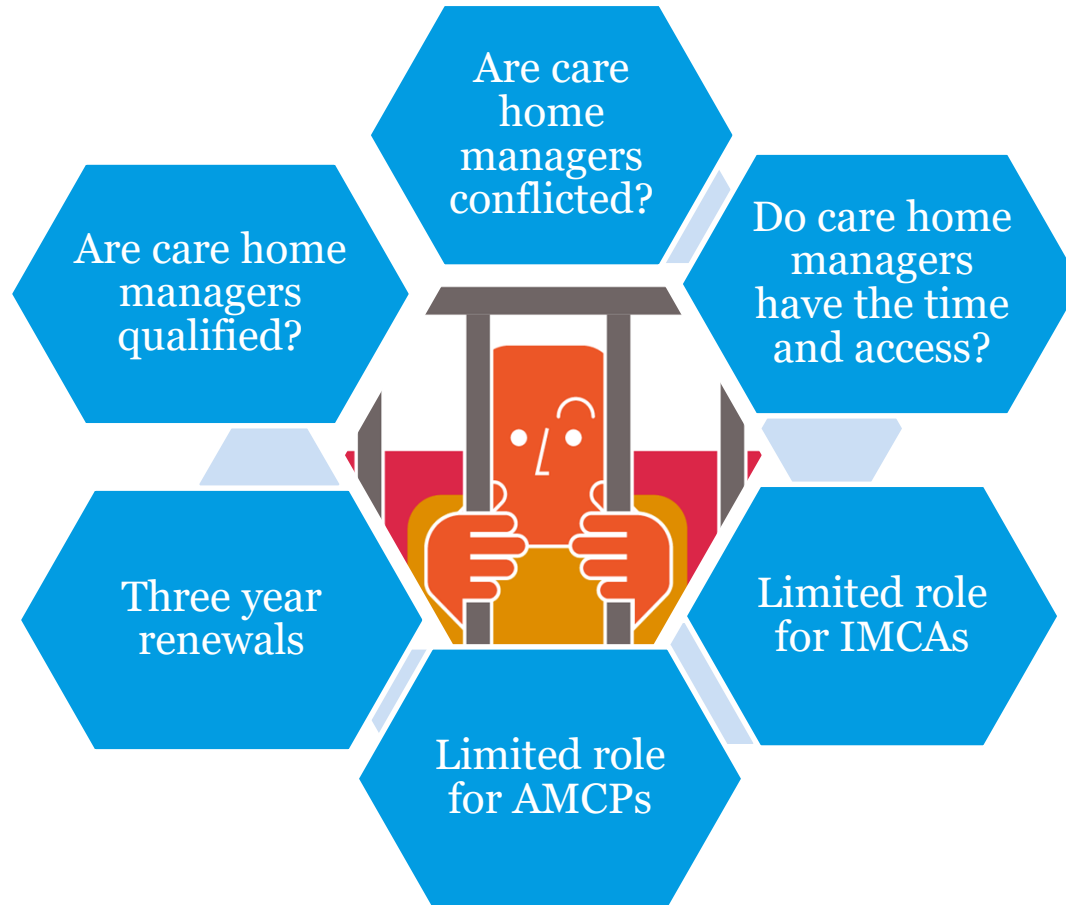
## 4. LPS: Ways they may ease the backlog

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## 4. LPS: Concerns about the scheme

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## 4. What can we do?

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## 4. What can we do?

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### Wait

- Code of Practice
- Statutory Instruments
- Expected to come into force Spring 2020



### Litigate

- Definition of DoLS
- Compliance of LPS with Article 5





Definition remains a problem

New Liberty Protection Safeguards may ease pressure, but unlikely to remove it – and at what cost?

Focus likely to return to litigating the definition in the Courts