



A presentation by

HILL DICKINSON

Webinar: Liberty Protection Safeguards – October follow up

Thursday 7 October 2021

Housekeeping

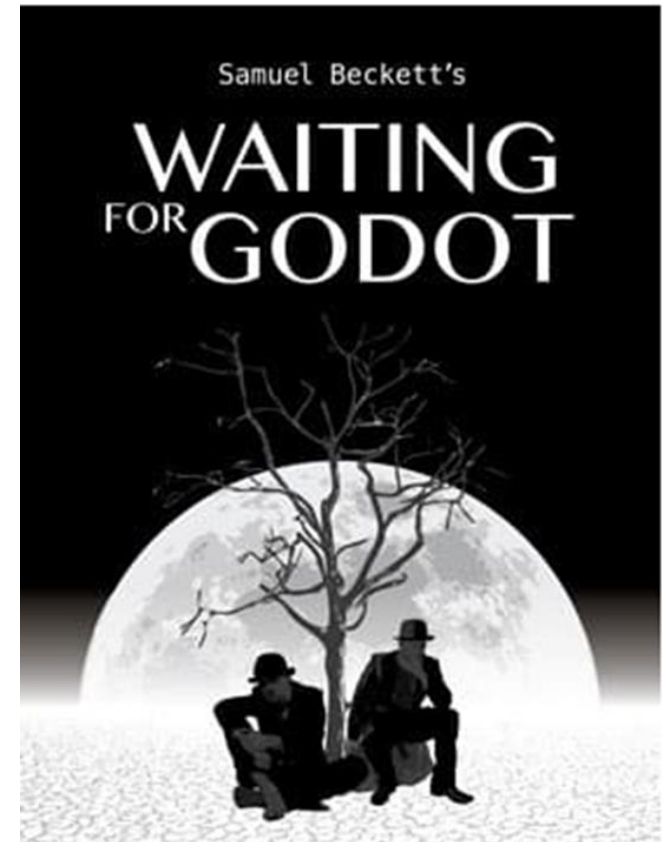
- Please note your microphones and cameras are off
- Please use the chat area to ask a question
- This session is being recorded
- Recording and presentation slides will be sent to all post webinar

Programme

- 11:00 Welcome & introduction
- 11:05 Tim Spencer-Lane
- 11:25 Kenny Gibson
- 11:45 Q&A
- 12:00 Webinar ends

Welcome & introduction

- Ben Troke
- Partner, Hill Dickinson LLP
- 0113 487 7963 / 07970 615452
- Ben.troke@hildickinson.com
- LPS@hildickinson.com



The Liberty Protection Safeguards

Tim Spencer-Lane

October 2021

**What on earth has
happened to the
LPS Code &
regulations?**



LPS basic principles

- Deprivation of liberty is everyone's business
- Moving consideration to the frontline
- No more court authorisations

Liberty Protection Safeguards – in one slide!

- Setting neutral (eg can cover domestic settings)
- Portable - can apply to multiple arrangements
- Includes 16/17 year olds
- Responsible body is NHS for NHS hospitals & CHC, local authority for all other cases (eg self-funders)
- 3 assessments: capacity, medical and necessary & proportionate
- Additional scrutiny by AMCP in 'objection' cases
- Rights to IMCA or appropriate person

What we know

- There will be a single Code for MCA & LPS
- Health & Care Bill proposes to abolish CCGs & replace with integrated care systems (ICS)
- Government response to consultation on White Paper (Reforming the MHA) confirmed that MCA interface will not be amended
- CQC and Ofsted will monitor and report on the LPS in England

Transitional arrangements

Commencement & transitional regulations

- No new DoLS after April 2022
- Existing DoLS will continue until they expire (inc urgent authorisations)
- Court of Protection cases (eg 'Re X') will need to be transferred to a responsible body

Regulations - Professions

Capacity assessment

Registered medical practitioner

Registered nurse

Registered occupational therapist

Registered social worker

Registered psychologist

Registered speech and language therapist

Medical assessment

Registered medical practitioner

Registered psychologist

Necessary & proportionate assessment

Registered medical practitioner

Registered nurse

Registered occupational therapist

Registered social worker

Registered psychologist

Registered speech and language therapist

AMCP

Registered nurse

Registered social worker

Registered psychologist

Registered speech and language therapist

Registered occupational therapist

Key Issues for the Code

- What will the definition chapter say?
- Assessments – time limit of 21 days?
- Will GPs be expected to do medical assessments?
- What about fluctuating capacity?
- When should power to refer to AMCP be used?
- AMCP service?
- Who will be the non-AMCP reviewer?
- Who can give the authorisation?

My contact details

t.spencer-lane@sgul.kingston.ac.uk

Thank you for listening

Kenny Gibson
National Head of Safeguarding
NHS England and NHS Improvement

Thursday 7 October 2021

The NHS and independent providers with an NHS Contract have established an MCA LPS Clinical Reference Group (CRG)

- This dovetails into the DHSC MCA LPS Implementation Group.
- The MCA LPS CRG will focus on collaboration ~
 1. Health Education England and Skills 4 Health to co-create accredited awareness and training modules from January 2022
 2. NHS Digital to ensure all clinical system provider make ready the LPS minimum data set and LPS data collection portal from March 2022
 2. CCGs, Integrated Care Systems and responsible body providers to make ready for April 2022 – we have launched an LPS readiness audit and heat map
 3. Regional LPS Clinical Leads (from November 2021) and local integrated LPS transformation teams (from March 2022) until March 2024 – we see this as a two year transition period, as with Prevent, Working Together and Domestic Abuse Act
- In the meantime our LPS CRG and NHS Safeguarding will sustain our social media presence and the use of rapid reads to raise awareness of mental capacity and LPS readiness by April 2022 across our NHS and independent providers with an NHS contract

Any questions?

LPS@hildickinson.com

About the firm

- An international commercial law firm
- More than 850 people, including 185 partners and legal directors
- Offices in the UK, mainland Europe and Asia
- Over 200 years of heritage
- Full-service offering
- Specialists in a wide range of market sectors
- Comprehensive corporate responsibility programme of activity



A presentation by

HILL DICKINSON