

February 2019

Dear Constituent

### Mental Capacity (Amendment) Bill

Thank you for contacting me about the Mental Capacity (Amendment) Bill, which will introduce legislation to replace the current system known as 'Deprivation of Liberty Safeguards' (DoLS).

As you may be aware, DoLS is an assessment currently carried out on people who lack the mental capacity to make their own decisions about their care, for example because they are living with dementia. However, the current system is broken and is ultimately failing to provide vulnerable people with the protections they need. More than 48,000 people have been waiting more than a year for an assessment, and I agree with my ministerial colleagues that we urgently need to act to tackle this injustice.

That is why the Government has brought forward a new system, known as 'Liberty Protection Safeguards', which will become law through the Mental Capacity (Amendment) Bill. These reforms will introduce a simpler, streamlined process that is essential to tackling the backlog of vulnerable people waiting for an assessment, but, crucially, robustly upholds the rights of the individual at all stages. Giving more power to the individual, the new Safeguards ensure their thoughts and feelings are taken into account throughout.

As you may be aware, the Bill is currently making its way through Parliament. Far from being rushed, the Bill builds on the Law Commission's three years of engagement with vulnerable people, carers, local government and providers.

I know there has been some concern over the role of care home managers in this system. Care home managers, as in the current system, will continue to play a role in identifying a need for safeguards, as well as playing a role in flagging when someone has objections to their arrangements. The Minister for Care has made clear that care home managers will never be responsible for authorising arrangements or conducting reviews. This will rightly be the sole duty of responsible bodies such as local authorities or hospitals.

For people with long-term progressive conditions, starting the process from scratch every year can be cumbersome and unnecessary. The Liberty Protection Safeguards model therefore triples the maximum authorisation length from one year to three years, as recommended by the Law Commission. This will only be granted to people who have already received two prior assessments and authorisations, and whose circumstances are unlikely to change. Every authorisation will also be supported by a programme of reviews which can take place regularly within an authorisation period to ensure that the care arrangements in place remain appropriate for the individual.

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I hope this reassures you that the Government is steadfastly committed to tackling this broken system while ensuring the rights of those affected are robustly protected throughout.

Yours sincerely



Richard Benyon