

International Journal of Mental Health and Capacity Law

CALL FOR PAPERS

Special Issue on Rethinking the Deprivation of Liberty Safeguards

The International Journal of Mental Health and Capacity Law invites papers for inclusion in a special edition on the topic of Deprivation of Liberty Safeguards to be published in 2016. The special edition builds upon the 'Rethinking Deprivation of Liberty in a Health and Social Care Context' conference held in London on 30 September 2015 (see <http://www.law.qmul.ac.uk/events/items/157413.html>). The conference brought together legal, social work and clinical professionals, academics and law reformers. This special issue will build on the discussions and presentations at that conference, but it is not restricted to contributions from those who participated in this event.

AIM AND SCOPE

The Deprivation of Liberty Safeguards (DoLS) were introduced in England and Wales in 2007 to bridge the so-called "Bournewood gap" identified by the European Court of Human Rights in the case of *HL*. The Court found that the lack of legal safeguards for incapacitated adults deprived of their liberty in hospitals and care homes was a breach of the European Convention on Human Rights.

In March 2014 the Supreme Court in *Cheshire West* clarified the definition of deprivation of liberty in the context of health and social care placements. Amongst the direct consequences of this decision is the surge in demand for DoLS assessments that is stretching social and health care bodies and raising concerns regarding the extent to which the DoLS process militates against the delivery of safe and effective care and treatment.

Furthermore, a House of Lords Select Committee conducting post-legislative scrutiny of the Mental Capacity Act found in 2014 that the DoLS are not "fit for purpose" and called for them to be replaced. The Law Commission has been asked to review the law relating to deprivation of liberty and a consultation paper was published in July 2015.

In this context, there is a pressing need for a discussion about the problems that confront health and social care practitioners and service users as a result of the current legal framework and whether, and if so how, it should be reformed. This is also an important opportunity for analyses of the relationship between care, liberty and diversity in a health and social care context. The issues that arise in the context of deprivation of liberty are not limited solely to England and Wales; all of the jurisdictions of the United Kingdom are currently confronting these questions in the context of legislative reform, and they are rising up the agenda in other countries.

The editors seek academic articles, practice points, case notes and reports of research that relate to experiences with the DoLS and/or assist the process of legislative reform in England and Wales and further afield. Interdisciplinary and comparative approaches are encouraged.

Topics may include, but are not restricted to:

- Empirical accounts of the challenges for health and social care users, practitioners and authorities in the application of the DoLS.
- Critical analyses of the Law Commission's DoLS consultation paper and the consultation process.
- The compatibility of the current legal framework with the European Convention on Human Rights or the United Nations Convention of the Rights of Persons with Disabilities.
- Alternative legal frameworks for authorising deprivation of liberty based on the experience of other jurisdictions.
- Doctrinal and philosophical reflections about the meaning and significance of 'liberty' in a health and social care context.

SUBMISSION

We are keen to receive submissions of between 5,000 - 10,000 words (given the complexity of the issues, we envisage that many submissions may well be longer rather than shorter). A double blind peer review process will be used.

The editors will accept submissions for publication until 31 January 2016. Articles submitted after this date will most likely be considered for the next issue of the journal. The journal will only accept contributions submitted via the website. For further information please access <http://journals.northumbria.ac.uk/index.php/IJMHMCL/about>.

ABOUT THE JOURNAL

The International Journal of Mental Health and Capacity Law (ISSN: 2056-3922) is an international peer reviewed open access journal devoted to the intersection between law, mental health and mental capacity. It publishes scholarly work on the civil and criminal aspects of this intersection. This covers matters that have a long history of producing difficult legal dilemmas – such as the involuntary detention and treatment of people with psycho-social disorders, and the impact of mental impairment on criminal trial processes. The Journal also provides an outlet for research and commentary on matters that have come to the fore because of recent human-rights based developments, including the need to have positive regulation of the situation of people with compromised ability to make decisions in light of a psycho-social disorder.

This special issue will be edited by Alex Ruck Keene, Barrister at 39 Essex Chambers; Honorary Research Lecturer, University of Manchester and consultant to the English Law

Commission's Mental Capacity and Deprivation of Liberty project; Catherine Penny, Consultant Forensic Psychiatrist at West London Mental Health NHS Trust and Visiting

Teacher at the Institute of Psychiatry, Psychology and Neuroscience, King's College, London; Daniel Wang, Lecturer at Queen Mary, University of London; Richard Ashcroft, Professor at Queen Mary, University of London; and Ruth Fletcher, Senior Lecturer at Queen Mary, University of London.

CONTACT

For further information please contact Daniel W. Liang Wang (daniel.wang@qmul.ac.uk).