

Eluned Morgan AS/MS
Y Gweinidog Iechyd Meddwl, Llesiant a'r Gymraeg
Minister for Mental Health, Wellbeing and Welsh Language



Llywodraeth Cymru
Welsh Government

Our ref MA/EM/3762/20

Helen Whately MP
Minister of State for Care
39 Victoria Street
London SW1H 0EU
pshelenwhately@dhsc.gov.uk

10 February 2021

Dear Helen,

In your letter of 13 July to the Minister for Health and Social Services regarding the implementation of Liberty Protection Safeguards – you set out the revised planned coming into force date of April 2022.

We welcome the clarity of this new date and note the UK Government's plans to consult on draft regulations and the draft Code of Practice in 2021, ahead of laying regulations in 2022.

Although the coming into force date of LPS has been postponed, implementation by April 2022 remains a very challenging timetable for us to deliver. The additional time to prepare is therefore welcomed, particularly as we will need to develop and consult upon our own draft regulations. It is clear that this is a significant but important programme of work to be undertaken at a time, of course, when all public services are under additional pressure.

Welsh Government officials have convened a National LPS Implementation Steering Group for Wales to oversee the planning required for the implementation of the new safeguards and the development of regulations. Following the most recent meetings of the Steering Group in November and January (and the UK Government announcement in July), a number of stakeholders have highlighted concerns about meeting the April 2022 date. In particular, concerns have been raised over the limited time to develop and implement a workforce and training strategy ahead of provisions relating to new roles and training being in place (currently planned for January 2022), and the coming into force date three months later. Clearly, preparatory work across the wide range of sectors and organisations is limited until our stakeholders have seen a draft Code of Practice and I want to emphasise how important it is that we receive early sight of this to enable us to align with the UK Government timescales.

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

You should also be aware that the Welsh Government elections are due to take place in May 2021, and for this to be considered in relation to UK Government plans to consult on the draft regulations and draft Code of Practice.

I would like to use this opportunity to welcome the decision not to bring Paragraph 19 of the Mental Capacity (Amendment) Act 2019 into force when LPS is implemented, but note that this will be kept under review. Allowing care home managers to lead on LPS assessments would have placed additional responsibilities on this sector – at a time when they are already facing increasing financial pressures.

I know my officials are working closely with yours in the Department for Health and Social Care, and that this will continue over the coming months.

I look forward to ongoing engagement in relation to the UK Government's planned timetable for the regulations for England and preparations for the implementation of LPS. The inefficiencies of the current DoLS system are widely recognised. These important safeguards will help to protect the rights of some of our most vulnerable populations in Wales, help to improve outcomes for those people being deprived of their liberty, and ensure that the Mental Capacity Act is working as intended – where the individual is at the heart of all decision making.

I am copying this letter to the Secretary of State for Wales.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'M. E. Morgan'.

Eluned Morgan AS/MS

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