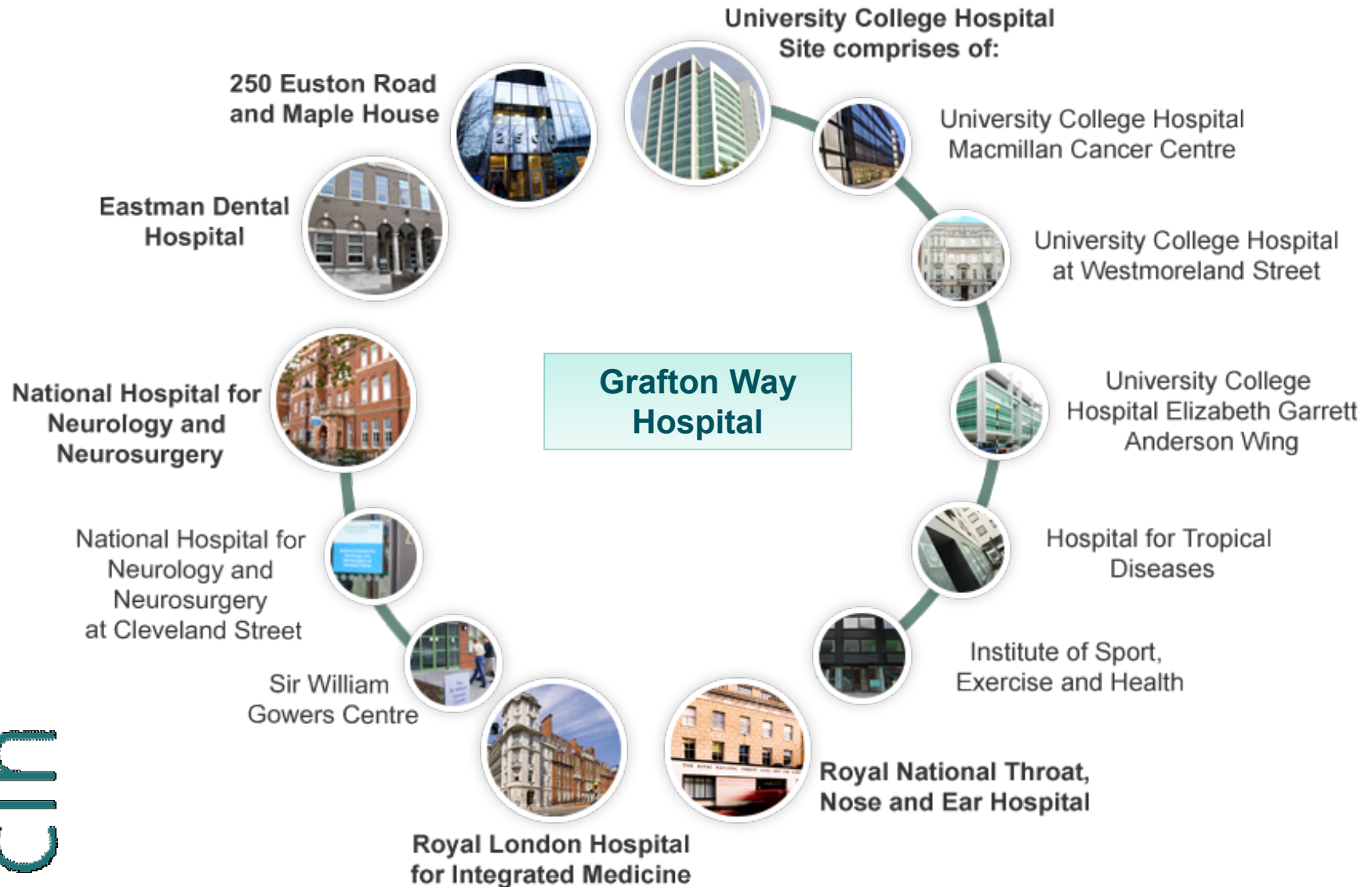


# Mental Capacity & Safeguarding

**Betsey Lau-Robinson**

**Head of Safeguarding Adults & the Mental Capacity Act**





# Points for discussion

## 1. Safeguarding risks & triggers

- **Multi agency working, information sharing**
- **Advocacy & identifying risks**
- **Professional curiosity**
- **Confidence to challenge practice**
- **Supporting Learning Disabilities & Autism**
- **Learning lessons: Safeguarding Adult Reviews, Domestic Homicide Review, Serious Incidents, Inquests, LeDER Reviews**
- **Statutory responsibilities, NICE guidance**

## 2. Making decisions & consenting for treatment

- **Applying MCA principles**
- **Restrictive practice & Deprivation of Liberty safeguards (DoLS) > Liberty Protection Safeguards ( LPS)**
- **The supporting role of Therapies teams**



Care Act 2014

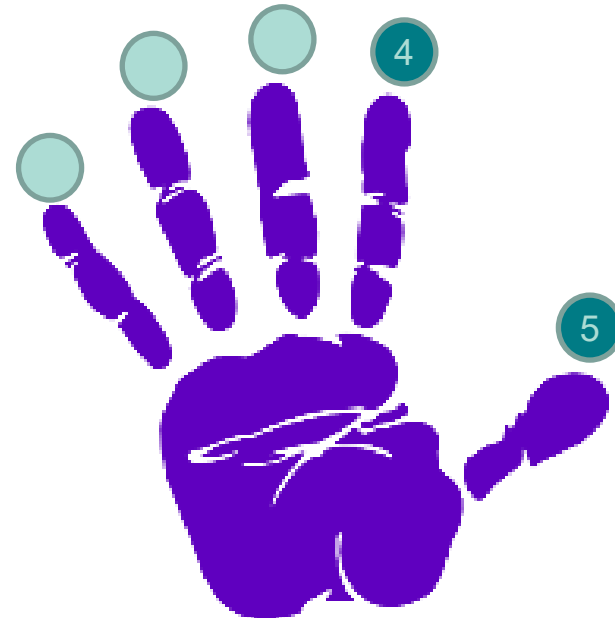
## Safeguarding categories:

1. Physical
2. Sexual abuse
3. Organisational abuse
4. Financial or material abuse
5. Neglect and acts of omission
6. Discriminatory abuse
7. Psychological abuse –control, coercion, isolation
8. **Self Neglect**
9. **Domestic Violence**
10. **Modern Slavery**



# Mental Capacity Act 2005 – 5 principles

1. A presumption of capacity
2. Individuals supported to make their own decision
3. Unwise decisions
4. Best interests
5. Less restrictive option



After Shropshire Council

# #1 Mr Flowers

62 yo, Motor Neurone Disease, loss of weight, swallow problems, reduced mobility, refuse to engage with medical interventions

1. Capacity & consenting
2. Making unwise decision
3. Safeguarding protective measures: self neglect, care assessment & package of care for safe discharge home or elsewhere
4. Multi- agency working & support is key

## # 2 Mrs Meadows

49 yo, Multiple Sclerosis, deteriorating health & disabilities, communication issues

- ❖ Request for IUD contraception implant
  - Safeguarding concerns - control & coercion
  - Professional curiosity & responsibilities
  - Capacity to consent to sexual relationship & birth control
  - Use of communication tools
  - Ongoing monitoring & safeguarding by multi-agencies, advocacy
  - Refer to case laws

## # 3 Mr Rose

75 yo, history of stroke, hydrocephalus, schizophrenia, mental decline, increase physical difficulties, requires urgent shunt, is refusing treatment

- Supporting decision making, capacity to consent
- Making an unwise decision

The Best Interest process, if he lacks capacity:

- Wishes & beliefs
- LPA for Health or an Advance Decision to refuse treatment (ADRT)
- IMCA, if there is no nok or Advocate
- Mental Health Act & Mental Capacity Interface
- Multi Agency working & safeguarding



## # 4 Pansy

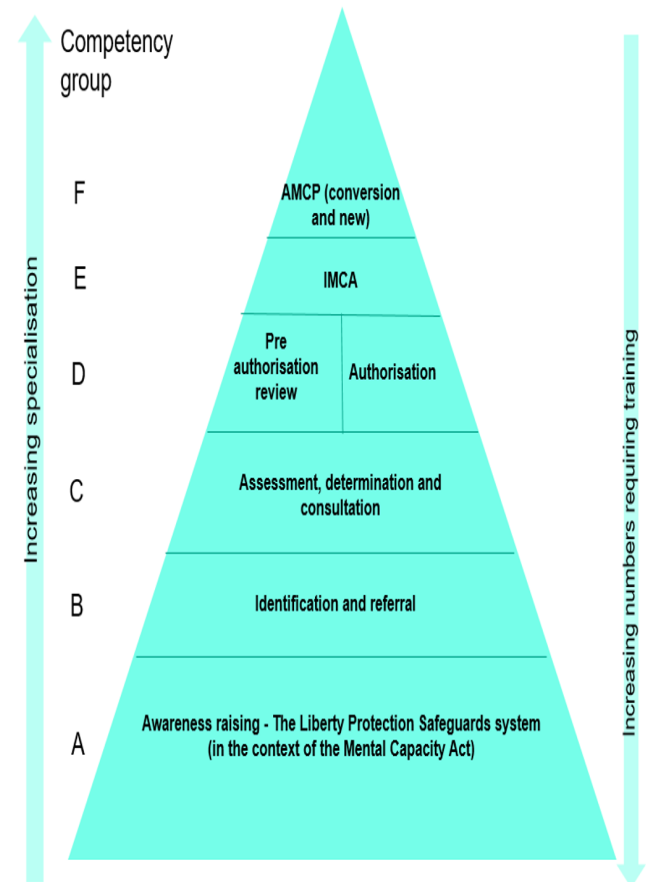
**17 yo**, encephalitis, seizures, aggressive behaviour, weight loss, require urgent NG/ PEG

- **Decision making, capacity & consenting**
  - Consenting for 16-17y yo (MCA)
  - Parents refuse to consent to PEG, religious beliefs
  - Safe restrictive practice – sedation, physical, DoLS or COPDOLS11( Court of Protection)
- **Best Interest process**
  - Support decision making, advocacy
  - Multi agency working input
  - Supporting parents
- **Safeguarding** -managing risks, protective measures

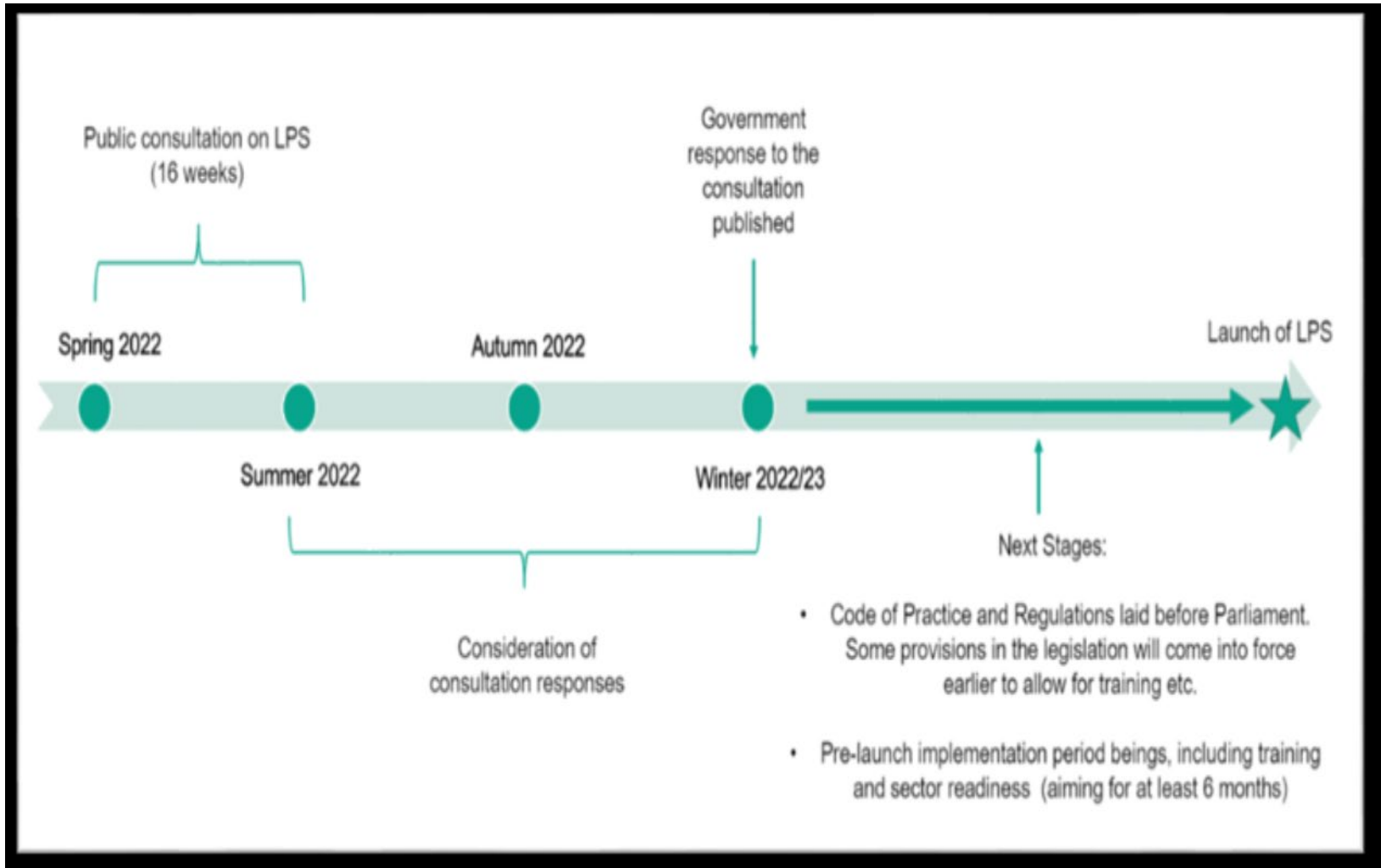
# Liberty Protection Safeguards – where are we?

- New statutory roles & responsibilities for organisations & professionals
- Department of Health & Social Care:
  - MCA & LPS Code of Practice Consultation > Parliament
  - Training Framework
  - Factsheets
  - Capacity & Resources
  - Implementation -? 2023/24

## Liberty Protection Safeguards (LPS) Workforce and Training Triangle



# DHSC Timeline 17 March 2022



# Learning objectives

- ✓ Patient freedom of choice
- ✓ The MCA principles
- ✓ Unwise decisions
- ✓ Respecting wishes & beliefs
- ✓ Safeguarding and positive risk taking
- ✓ Professional curiosity
- ✓ Confidence to challenging practice & act as the patient's advocate
- ✓ Know who & how to escalate risks
- ✓ Multi agency working, information sharing & comms

➤ **Mental Capacity (Amendment) Act 2019**

<http://www.legislation.gov.uk/ukpga/2019/18/enacted>

➤ **National Mental Capacity Forum**

<https://www.scie.org.uk/mca/directory/forum>

➤ **NICE Guidelines – Advance Decision & Mental Capacity**

<https://www.nice.org.uk/guidance/ng108>

➤ **General Medical Council (GMC)**

[http://www.gmcuk.org/guidance/ethical\\_guidance/consent\\_guidance\\_making\\_decisions\\_patient\\_lacks\\_capacity.asp](http://www.gmcuk.org/guidance/ethical_guidance/consent_guidance_making_decisions_patient_lacks_capacity.asp)

➤ **NHS England**

<https://www.england.nhs.uk/ourwork/safeguarding/>

➤ **Adult Safeguarding: Intercollegiate Training Framework 2018 (RCN)**

<https://www.rcn.org.uk/professional-development/publications/pub-007069>

➤ **Essex Chambers**

[39 Essex Chambers | Health, Welfare and Deprivation of Liberty Report – July 2022](#)  
[- 39 Essex Chambers | Barristers' Chambers](#)



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