

## **Briefing for Managing Authorities (Care Homes)**

### **Supreme Court Judgment on Deprivation of Liberty – 2 June 2026**

#### **Introduction**

On 2 June 2026, the UK Supreme Court issued a landmark judgment which significantly changes how deprivation of liberty is understood and assessed within adult social care. This decision alters the legal framework that has underpinned Deprivation of Liberty Safeguards (DoLS) since 2014 and will have important implications for care homes in their role as managing authorities.

#### **Summary of the judgment**

The Supreme Court has overturned the previous legal test established in *Cheshire West* (2014), which identified a deprivation of liberty where a person was under continuous supervision and control and not free to leave, regardless of whether they were content or appeared compliant. In place of this acid test, the Court has introduced a more individualised and contextual approach. Practitioners must now consider the person's situation in the round, including the nature and impact of restrictions, the purpose of care, the setting, the duration and intensity of restrictions, and the person's wishes and feelings. The Court also recognised that a person may express valid consent through their wishes and feelings even if they lack formal capacity.

#### **What this means for care homes**

This judgment represents a significant shift, and national guidance is expected. In the meantime, there are important implications for care home practice.

#### **Less reliance on automatic thresholds**

Care homes should be aware that the previous reliance on the acid test alone is no longer sufficient. Greater emphasis must now be placed on professional judgement and the individual's circumstances.

#### **Day-to-day practice and culture of care**

There is increased focus on the lived experience of the individual. Providers should promote least restrictive care, support choice and control, avoid blanket restrictions, and ensure care is person-centred rather than task-led.

#### **Wishes and feelings**

Care homes must actively seek and record the person's wishes, feelings, and level of acceptance. Expressions of contentment or objection should both be clearly documented and reflected in care planning.

#### **Proportionate restrictions**

Restrictions must be necessary, proportionate, and regularly reviewed. The context of care remains important, including the type of setting and level of restriction.

#### **Safeguarding and legal protections**

The right to liberty under Article 5 remains in place. Care homes must continue to identify potential deprivations of liberty, make referrals where appropriate, and work within the Mental Capacity Act.

**Interim expectations**

Care homes should continue to submit DoLS applications where there is uncertainty, ensure clear recording of wishes and rationale for restrictions, avoid blanket approaches, and maintain a least restrictive, person-centred approach.

**Next steps**

Warwickshire County Council is reviewing the implications and will provide further guidance, including any changes to referral expectations and further support opportunities.

**Conclusion**

This judgment marks a move towards a more person-centred and context-driven approach. Care homes should focus on quality of care, meaningful engagement, and continued compliance with legal and safeguarding responsibilities.