

Supreme Court Ruling on Cheshire West

On 2nd June 2026, the Supreme Court issued a significant judgement which overrules the 2014 Cheshire West decision, fundamentally changing the legal test for determining a deprivation of liberty.

By way of reminder, Cheshire West established the well-known “acid test”, where a person who lacks capacity to consent to their placement was considered ‘deprived of their liberty’ if they were:

1. under continuous supervision and control and
2. not free to leave.

This test triggered important safeguards under the Deprivation of Liberty Safeguards (DoLS).

Today’s ruling moves away from this approach. The Supreme Court has:

- Rejected the universal “acid test”, confirming it was not consistent with wider human rights case law
- Introduced a more holistic, multi-factor assessment, considering the individual’s specific circumstances, including type, duration and effects of restrictions
- Indicated that a person may be able to give “valid consent” to their care arrangements, even where they lack capacity, meaning Article 5 safeguards may not always be engaged.

This represents a major shift in how deprivation of liberty is defined and applied in practice and will have wide-ranging implications across health and social care.

Next steps

tri.x are reviewing the judgement in detail and monitoring for further guidance, including updates to the Code of Practice. We will update procedures and provide further direction as soon as more clarity is available.