



Restraint, restriction and deprivation of liberty

Understand the distinction between restriction, restraint and deprivation of liberty, and apply the current post-June-2026 multifactorial Article 5 approach rather than outdated shorthand.

Estimated learning time	Sources checked	Review due
50 minutes	17 September 2026	2026-10-17

Clinical safety: This educational module does not replace current law, statutory guidance, local policy, legal advice or patient-specific clinical judgement. Jurisdiction-specific rules must be checked for the nation in which care is delivered.

Your reflection is private. After completing the assessment you may optionally save a reflection in your Clinical Education account. Reflection is not part of this downloadable reading file, is not shown on the module certificate and is not exposed through the site administrator interface. Do not put identifiable patient, colleague or confidential employer information into reflective notes.

Learning objectives

- Explain why restraint, restriction and deprivation of liberty require separate, proportionate analysis.
- Describe the significance of the 2 June 2026 UK Supreme Court judgment for Article 5 analysis.
- Avoid teaching pre-2026 “acid test” shorthand as the current universal test.
- Recognise when local/national safeguards or specialist legal advice are required.

Learning material

Restriction, restraint and deprivation are not synonyms

Clinical care can involve restrictions: supervision, locked doors, bedrails, limits on leaving or continuous observation. Restraint is a more specific concept under relevant law and policy. A deprivation of liberty engages Article 5 safeguards and cannot be identified simply by counting restrictions.

The task is to examine the concrete care arrangements, their intensity and duration, the person’s situation and wishes, the purpose of the arrangements and the legal framework.

The 2026 Supreme Court judgment

On 2 June 2026 the UK Supreme Court delivered judgment in *A Reference by the Attorney General for Northern Ireland* [2026] UKSC 16. Current official guidance states that the definition of deprivation of liberty must be approached through a multifactorial assessment of the concrete situation rather than treating the pre-2026 Cheshire West “acid test” as a complete universal rule.

Because this area is changing rapidly, module users must check current national and local guidance before applying safeguards in practice.

Multifactorial assessment of the concrete situation

The assessment should consider the actual circumstances rather than labels. Relevant factors can include the degree of supervision and control, freedom to leave, the person's valid consent, the nature and duration of restrictions, the setting and the overall practical impact. No single phrase should substitute for analysis.

The clinical record should describe what is happening in real terms rather than simply write "DoLS" or "not DoLS".

England and Wales: current safeguards

The Mental Capacity (Amendment) Act 2019 created Liberty Protection Safeguards, but at the evidence cut-off the LPS framework should not be described as having replaced existing arrangements without checking current commencement. Clinicians must use the safeguards and local processes actually in force at the time of care.

Scotland and Northern Ireland

Scotland and Northern Ireland have distinct legal frameworks. Northern Ireland has its own deprivation-of-liberty safeguards within commenced Mental Capacity Act arrangements; Scotland uses its own incapacity and human-rights framework.

Never assume that an English DoLS label identifies the correct route in another nation.

Documentation, proportionality and escalation

A useful record describes the restrictions, why they are considered necessary, alternatives considered, the person's responses and wishes, review plans and the safeguard/escalation route. Restrictions should be the minimum necessary and reviewed as circumstances change.

Where the legal status is uncertain or restrictions are substantial, obtain specialist mental-capacity, safeguarding or legal advice promptly.

Key terms for review

deprivation of liberty, Article 5, restriction, restraint, DoLS, LPS, UKSC 16, acid test, valid consent, proportionality

Documentation exercise

Write a structured record of the concrete care arrangements, the person's expressed wishes/behaviour, restrictions imposed, purpose, alternatives considered and escalation route.

Official sources and further reading

The links below are the authentic official sources used for this module. They should be rechecked for time-sensitive clinical or legal decisions.

MC-UK-01 - A Reference by the Attorney General for Northern Ireland [2026] UKSC 16

<https://supremecourt.uk/cases/uksc-2025-0042>

MC-UK-02 - Changes to the definition of deprivation of liberty

<https://www.gov.uk/government/publications/changes-to-the-definition-of-deprivation-of-liberty>

MC-EW-03 - Mental Capacity (Amendment) Act 2019

<https://www.legislation.gov.uk/ukpga/2019/18/contents>

MC-EW-04 - Liberty Protection Safeguards collection

<https://www.gov.uk/government/collections/mental-capacity-amendment-act-2019-liberty-protection-safeguards-lps>

MC-EW-06 - Deprivation of Liberty Code of Practice

<https://www.gov.uk/government/publications/deprivation-of-liberty-code-of-practice>

MC-NI-02 - Mental Capacity Act - Department of Health NI

<https://www.health-ni.gov.uk/topics/mental-capacity-act>

MC-NI-05 - MCA(NI) 2016 Deprivation of Liberty Safeguards Code of Practice

<https://www.health-ni.gov.uk/publications/mcani-2016-deprivation-liberty-safeguards-code-practice-november-2019>

MC-S-01 - Adults with Incapacity (Scotland) Act 2000

<https://www.legislation.gov.uk/asp/2000/4/contents>

High update-risk topic: deprivation-of-liberty law changed following the UK Supreme Court judgment of 2 June 2026. Always verify the current legal position and implementation guidance before relying on this module for a live case.

Next step

Return to [clinicaledu.uk](https://www.clinicaledu.uk) to take the module assessment. After a pass, you may obtain the module certificate and, separately, add an optional private reflection and generate a learner-controlled Learning & Reflection Record.

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