Neutral Citation Number: [2026] EWHC 2854 (Fam)
Case No: FD26C40116

IN THE HIGH COURT OF JUSTICE,
FAMILY DIVISION,
NATIONAL DEPRIVATION OF LIBERTY LIST.

Royal Courts of Justice
Strand, London, WC2A 2LL
07/07/2026

IN THE MATTER OF THE SENIOR COURTS ACT 1981
IN THE MATTER OF THE INHERENT JURISDICTION OF THE HIGH COURT

IN RE C (A CHILD WITH COMPLEX NEEDS INCLUDING A SEVERE LEARNING DISABILITY: DEPRIVATION OF LIBERTY)

B E T W E E N: -

MANCHESTER CITY COUNCIL

Applicant

-V-

THE MOTHER

First Respondent

- V-

THE FATHER

Second Respondent

-V-

C (A CHILD ACTING BY HIS GUARDIAN)

Third Respondent

This judgment was delivered in private. The judge has given leave for this version of the judgment to be published on condition that (irrespective of what is contained in the judgment) in any published version of the judgment the anonymity of the child and members of their family must be strictly preserved. All persons, including representatives of the media, must ensure that this condition is strictly complied with. Failure to do so will be a contempt of court.

(Mr Matiss Krumins instructed by Manchester City Council Legal & Democratic Services, solicitors for the Applicant)

(The First Respondent appeared in person.)

(The Second Respondent did not attend the hearing)

(Mr Callum Brook instructed by Cartwright King, solicitors for the third Respondent)

Hearing date: 7 July 2026

JUDGMENT

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THE HONOURABLE MS JUSTICE HENKE

Henke J:

1. Last term, I heard several Deprivation of Liberty cases. I considered each case on its own facts. In each case, I gave a decision with brief reasons but reserved judgment. This is the second such judgment. The first is reported as in *Re B (A Child: Complex needs: Deprivation of Liberty) [2026] EWHC 2789 (Fam)*.

Relevant Background

2. This case concerns the young person I shall call C. C is 14 years old. He has formal diagnoses of autism, severe learning disability and hyperactivity. He is active and likes to climb, spin and pace. C struggles to sleep. He does not have any awareness of danger to himself or others and needs others to keep him safe. C puts himself at risk. He does not like unfamiliar people supporting him. C finds noisy and busy places difficult to manage. He displays sensory behaviours. In a crisis, C can kick out, hit, push, bite and throw things. Sometimes his behaviours are targeted at one person. C can be helped when in crisis by removing the targeted person; by providing him with a low-stimulation environment; by providing him with a quiet space; by using a change of face; by using no language. C needs help and support with his self-care and toileting. He is going through puberty and needs to be prompted to go to a private place to masturbate. C likes going out for walks and going on the swings. He wears a harness when in the community. C needs constant supervision in the garden. C likes music, particularly beating a drum.

3. C is non-verbal. He will lead an adult by the hand to indicate what he wants. He will bring shoes to an adult if he wants to go out. C makes sense of the world around him by his routine. He knows some familiar words related to his everyday routines and, when C is calm, he can use 1–2 symbols on a now/next board to understand what is happening to him. C can use key symbols himself to make a request. C can sing a song to himself. C likes it when the adults around him copy the sounds he makes. C struggles

with his memory and needs help to make choices. Sometimes he cries a lot for no apparent reason and sometimes he gets angry. When he gets angry, he can hit himself in the face and bite himself. C has a great sense of humour and infectious giggles. He is tactile and affectionate.

4. C attends a school which meets his needs. He loves school and the routine it affords him. On days when he is unsettled and dysregulated, C is given space and the opportunity to regulate using a swing or the school's sensory gym.

5. Until December 2025, C lived with his parents and siblings during the week and accessed respite care at weekends. As C got older, C's parents struggled to keep C and his siblings safe. In December 2025, C's parents asked the local authority to accommodate him. C was duly accommodated by the local authority pursuant to S20 CA 1989 in a community placement with one other. The local authority did not seek permission to invoke the Inherent Jurisdiction and authorise his deprivation of liberty in that placement.

6. Although C no longer lives with his parents, C's parents remain actively engaged with his care and take responsibility for making decisions about his life. There is no question that the decisions C's parents have made for him have been child-focused and in his best interests.

7. By the time of the final hearing before me, C's initial community placement had broken down. He had been admitted in crisis to hospital and then discharged to a bespoke placement which was not registered with Ofsted. He had settled there. C's periods of dysregulation had become less frequent, and physical restraint was not necessary. In his placement and in the community, his supervision had been reduced from 6:1 although he remained constantly supervised by carers employed by the local authority, sometimes to a level of 4:1. The doors and windows to the placement were and remain locked to prevent him leaving. His parents, particularly his mother, were visiting and continue to visit him regularly, often daily. From the placement, C can continue to attend his school. His mother was clear that from her perspective, it meets her son's needs. She considers that it is a better option for him than an Ofsted registered placement out of area.

Procedural History

8. An application for an order of the court authorising the deprivation of C's liberty was initially made by an NHS Trust in late January 2026. It was made at a time of crisis. C had been admitted to the children's ward at a local hospital, having been brought to A&E as a place of safety by paramedics who had attended C after he became violent in his then community placement. At the time the application was made, C was medically fit for discharge, but his community placement refused to take him back and no alternative could be found. C remained in hospital with his parents' agreement. On the hospital ward, he was under 6:1 supervision, had no privacy and was not free to leave.

9. The application came before the court on 30 January 2026, when a short interim order was made authorising C's deprivation of liberty. The issues at that time were the level

of supervision (6:1) and C's continuing placement in hospital, it being accepted that it was contrary to C's welfare interests to remain on the ward for a protracted period.

10. On 2 February 2026, the local authority made a separate application seeking permission under S100 CA 1989 to invoke the court's inherent jurisdiction and court authorisation to continue to deprive C of his liberty. The next day, the court made another short order and, in the interim, authorised the following:
    a. C was to remain on the Children's Ward at the local Hospital, where he was secluded in one room with two empty rooms at either side of that room and a corridor separating him from the rest of the ward;
    b. C was to be subject to up to 4:1 observation at all times;
    c. Save for the purposes of attending school, C was to be prevented from leaving the ward (by way of locked doors and physical intervention to re-direct him to his rooms);
    d. C was to be subject to the use of physical intervention if verbal de-escalation and environmental changes failed – to be used as a last resort to prevent serious self-injury or harm to others.
    e. Emergency Services were to be contacted if C were to leave the hospital.

11. There was a hearing before me on 12 February 2026 during which an application by the Trust for the court's authorisation to chemically restrain C was abandoned. As of 12 February 2026, no placement could be found for C and he remained in hospital. I relisted his case before me on 24 February 2026. By 24 February 2026, a placement had been found. It was a bespoke placement 'built' by the local authority for the purposes of caring for C. It was and is a terraced house staffed by an agency employed by the local authority. It was not registered with Ofsted. Accordingly, I made another interim order authorising the deprivation of his liberty at that placement and directing the local authority to provide:
    a. Confirmation that planning permission has been obtained for the premises to operate as a children's home as a sole or multiple occupancy placement.
    b. Evidence that the provider is actively pursuing registration or intends to do so, together with any relevant correspondence regarding their unregulated status, including the steps they plan to take to address it.
    c. Details regarding the frequency and regularity of social work visits to the child.
    d. A general update in terms of C's welfare with details as to any recent incidents of concern and use of restraint.
    e. Confirmation of whether a placement has been identified, what searches have been undertaken and, if a placement has been identified, details of the placement and proposed transition plan.
    f. Details as to any proposed placement move, including the Ofsted registration status of any such placements and the date by which C can be moved;
    g. What restrictions, if any, were required there and whether an authorisation of the DOL court was required or whether it could be given through the exercise of parental responsibility, given C's age and zone of parental responsibility.
    h. Whether the local authority seeks an interim order or a final order and amendments or variations to the restrictions permitted.
    i. Consideration and exploration of family time/contact between C and his parents.
    j. Any such matters deemed relevant by the author including minutes of meetings regarding the child.

I relisted the application before me on 8 May 2026 after the Guardian for C had had time to visit C at the new placement.

12. On 8 May 2026, I was informed that an Ofsted-registered placement out of area had offered C a long-term placement which was available from 1 June 2026. I thus gave directions for the local authority to file further evidence in relation to the new placement, how C would be cared for there and what, if any, authorisation would be sought for his deprivation of liberty there. The case was relisted before me on 18 May 2026 to ensure that all necessary steps had been taken to enable C to move to the new placement on 1 June 2026 if I considered it to be in his best interests. Sadly, on 18 May 2026, it became apparent that additional works would be needed if C's intended placement was to meet his needs. Accordingly, I made another short interim order and relisted the case before me on 23 June 2026 in anticipation of the works being concluded by that date.

13. On 2 June 2026, the Supreme Court handed down judgment in *A Reference by the Attorney General for Northern Ireland of a devolution issue under paragraph 34 of Schedule 10 to the Northern Ireland Act 1998* [2026] UKSC 16 ("*AGNI*").

14. On 23 June 2026, C's case returned before me. The Ofsted placement that had previously been identified was no longer available. C remained in the placement to which he had been discharged from hospital in February 2026. C's mother preferred this placement as it enabled C to continue to attend his school and was sufficiently close to the family home to enable his parents to visit frequently. In the circumstances, I listed the case for a final hearing on 7 July 2026 and authorised C's deprivation of liberty until then. I gave directions for the filing of further evidence and the filing of skeleton arguments on behalf of the represented parties.

15. On 7 July 2026, the local authority was represented by Mr Krumins of Counsel and C, through his Children's Guardian, was represented by Mr Callum Brook of Counsel. C's mother attended the hearing via remote link and gave me her views using a court-ordered interpreter as needed. At the hearing before me, the Applicant and the Children's Guardian agreed that the objective limb of *Storck* was not met and C was accordingly not being deprived of his liberty. C's mother did not enter the legal argument but told me that from her perspective, the current placement met C's needs and had the benefit of being close to the family home and was a placement from which C could access his school. She agreed that the placement was in C's best interests.

Relevant Legal Principles

16. I have set out the relevant legal principles in paragraph 36 of *In Re B (A Child: Complex needs: Deprivation of Liberty) [2026] EWHC 2789 (Fam)*.

17. C's case has three distinctive additional features which I was asked to consider. They are:
    - 17.1. C is accommodated by the local authority pursuant to S20 CA 1989.
    - 17.2. C's placement is unregistered.
    - 17.3. C's parents agree to the restrictive measures that are used to keep C safe.

Accommodation

18. I begin by considering S20 CA 1989. In so far as is relevant to the facts of C's case, it states:
(1) Every local authority shall provide accommodation for any child in need within their area who appears to them to require accommodation as a result of—
(a).....
(b).....
(c) the person who has been caring for him being prevented (whether or not permanently, and for whatever reason) from providing him with suitable accommodation or care.
.....
.....

(7)A local authority may not provide accommodation under this section for any child if any person who—
(a)has parental responsibility for him; and
(b)is willing and able to—
(i)provide accommodation for him; or
(ii)arrange for accommodation to be provided for him,
objects.
(8) Any person who has parental responsibility for a child may at any time remove the child from accommodation provided by or on behalf of the local authority under this section.

19. C's parents consider that C's accommodation by the local authority is in C's best interests. Mr Krumins argues that their consent to S20 accommodation must be seen in the context of their circumstances and those of C. Much though they love him and seek to ensure he has the best care, they cannot care for him themselves. They can in principle object to his placement but cannot withdraw him from local authority accommodation because they cannot themselves source the facilities and package of care C needs. That, he says, renders their consent to C's accommodation academic and meaningless. I disagree. It is open to C's parents to object to C's accommodation if they consider it in C's best interests to do so. Such a decision would require them to balance the benefits and detriments of C returning to their care against a placement sourced by the local authority. At present, they consider the balance falls firmly in favour of C continuing to be accommodated, but should the balance tip the other way, it would be open to them to withdraw him and provide temporary care for him themselves whilst simultaneously holding the local authority to their statutory duties under S17, S20 and S22 CA 1989.

Unregistered Placement

20. Children accommodated under S20 CA 1989 fall within the definition of "looked after children" — S22(1) CA 1989 applies. S22A of CA 1989 places a duty on the local authority to provide a looked after child with accommodation.

21. S22C CA 1989 governs the arrangements a local authority must make for children they are looking after. In so far as is relevant to the facts of C's case, it states:
(1) This section applies where a local authority are looking after a child ("C").
(2) The local authority must make arrangements for C to live with a person who falls within subsection (3) (but subject to subsection (4)).
(3) A person ("P") falls within this subsection if –
a) P is a parent of C;
b).....
(4) Subsection (2) does not require the local authority to make arrangements of the kind mentioned in that subsection if so doing –
a) would not be consistent with C's welfare; or
b) would not be reasonably practicable.
(5) If the local authority are unable to make arrangements under subsection (2), they must place C in the placement which is, in their opinion, the most appropriate placement available.
(6) In subsection (5) "placement" means –
a) placement with an individual who is a relative, friend or other person connected with
C and who is also a local authority foster parent;
b) placement with a local authority foster parent who does not fall within paragraph (a);
c) placement in a children's home in respect of which a person is registered under Part 2 of the Care Standards Act 2000 or Part one of the Regulation and Inspection of Social Care (Wales) Act 2016; or
d) subject to section 22D, placement in accordance with other arrangements which comply with any regulations made for the purposes of this section.
(7) In determining the most appropriate placement for C, the local authority must, subject to subsection (9B) and the other provisions of this Part (in particular, to their duties under section 22) –
a) give preference to a placement falling within paragraph (a) of subsection (6) over placements falling within the other paragraphs of that subsection;
b) comply, so far as is reasonably practicable in all the circumstances of C's case, with the requirements of subsection (8); and
c) comply with subsection (9) unless that is not reasonably practicable.
(8) The local authority must ensure that the placement is such that –
a) it allows C to live near C's home;
b) it does not disrupt C's educational training;
c) if C has a sibling for whom the local authority are also providing accommodation, it enables C and the sibling to live together
d) if C is disabled, the accommodation provided is suitable to C's particular needs.
(9) The placement must be such that C is provided with accommodation within the local authority's area.

22. S22C CA 1989 was amended by the Care Planning, Placement and Case Review (England) (Amendment) Regulations 2021. Paragraph 27A of the Regulations states, again in so far as is relevant to the case before me:
27A A responsible authority may only place a child under 16 in accommodation in accordance with other arrangements under section 22C(6)(d), where the accommodation is—

(a) in relation to placements in England, in—

(i) a care home;

(ii) a hospital as defined in section 275(1) of the National Health Service Act 2006;

(iii) a residential family centre as defined in section 4(2) of the Care Standards Act;

(iv) a school within the meaning of section 4 of the Education Act 1996 providing accommodation that is not registered as a children's home;

(v) an establishment that provides care and accommodation for children as a holiday scheme for disabled children as defined in regulation 2(1) of the Residential Holiday Schemes for Disabled Children (England) Regulations 2013

23. S1(2) Care Standards Act 2000 defines a children's home as follows:
(2) An establishment in England is a children's home (subject to the following provisions of this section) if it provides care and accommodation wholly or mainly for children.

24. C's bespoke placement falls within the definition of a children's home and S22C(6)(c) of CA 1989 applies. C's placement is not currently registered with Ofsted. It is an unregistered placement falling within the definition provided at paragraph 40 of *MBC v AM & Ors (DOL Orders for Children Under 16) [2021] EWHC 2472 (Fam).*

25. In *MBC v AM & Ors (DOL Orders for Children Under 16) [2021] EWHC 2472 (Fam)* MacDonald J determined the effect of the amendment made by regulation 27A. In short, it prohibits the placement of a looked after child under the age of 16 in unregulated accommodation. Having considered the Supreme Court's decision in *Re T [2021] UKSC 35,* he was satisfied that it remains open to the High Court to authorise under its inherent jurisdiction the deprivation of liberty of a child under the age of 16 where the placement in which the restrictions that are the subject of that authorisation will be applied is a placement that is prohibited by the terms of the Care Planning, Placement and Case Review (England) Regulations 2021, without cutting across that amended statutory scheme.

26. As MacDonald J stated at paragraph 79 of his judgment in *MBC v AM:*
".....the task of the court when determining whether to exercise its inherent jurisdiction to grant a declaration authorising the deprivation of liberty of a child is to determine (a) whether the restrictions proposed constitute a deprivation of liberty for the purposes of Art 5 of the ECHR and (b) if so, whether the deprivation of liberty is in the child's best interests. As I have noted above, the legal principles that govern that task are well settled. With respect to the question of best interests, as I observed in Tameside MBC v C [2021] EWHC 1814 (Fam):
"[57] It is well recognised that, when the court is considering the best interests of the child as its paramount consideration in the evaluative exercise with respect to welfare required on an application made pursuant to the inherent jurisdiction of the High Court, the court surveys and takes into account a wide range of matters. To take but one example in the decision of the Court of Appeal in Re G(Children)(Same Sex Partner) [2006] 2 FLR 614:

'Evaluating a child's best interests involves a welfare appraisal in the widest sense, taking into account, where appropriate, a wide range of ethical, social, moral, religious, cultural, emotional and welfare considerations. Everything that conduces to a child's welfare and happiness or relates to the child's development and present and future life as a human being, including the child's familial, educational and social environment, and the child's social, cultural, ethnic and religious community, is potentially relevant and has, where appropriate, to be taken into account. The judge must adopt a holistic approach…'"

27. In coming to his decision, MacDonald J distinguished the power of a local authority to place a child in an unregistered children's home from the power to authorise a deprivation of liberty — see paragraph 4 of *MBC v AM* (above). They are, he said, *separate and distinct.* That reflects the view of the Supreme Court in *Re T* (above).

28. Once a child is placed in an unregistered placement, it is incumbent on the local authority to take the necessary steps to rectify the unregistered nature of the placement — see Lord Stephens at paragraph 172 in *Re T* (above).

29. In C's case, the local authority are taking the necessary steps to effect registration. In the meantime, C's social worker is visiting the placement weekly, the team manager and service manager have oversight of the placement and there are weekly multi-disciplinary meetings. In addition, there are Child in Care Reviews.

The Zone of Parental Responsibility

30. For children aged 16 or 17, it has been settled by Supreme Court authority that parents cannot provide valid consent to the confinement of the child by the State — *Re D [2019] UKSC 42, 1 WLR 5403* applied. Given that C is 14 years old, I have not heard any argument on whether *Re D [2019]* remains good law post-AGNI.

31. In relation to children under the age of 16, there is a long line of first instance authority beginning with Keehan J's decision in *Re D [2015] EWHC 3125 (Fam)* that parents may provide valid consent to the confinement by the State of children under 16 years old if they lack capacity to consent themselves, because such a decision may fall within the zone of parental responsibility. Recent examples can be found in *East Riding of Yorkshire Council v The Mother, The Father and L [2026] EWHC 181 (Fam)* and *Medway Council v The Father and O [2026] EWHC 236 (Fam)*.

32. In argument before me, I have been taken by Mr Krumins to *Nielsen v Denmark* (1988) ECHR 10929/84 at paragraph 72:

"*72. The Court accepts, with the Government, that the rights of the holder of parental authority cannot be unlimited and that it is incumbent on the State to provide safeguards against abuse. However, it does not follow that the present case falls within the ambit of Article 5.*
The restrictions imposed on the applicant were not of a nature or degree similar to the cases of deprivation of liberty specified in Article 5(1). In particular, he was not detained as a person of unsound mind so as to bring the case within Article 5(1)(e).

Not only was the child not mentally ill within the meaning of the 1938 Act, but the Psychiatric Ward at the Hospital was in fact not used for the treatment of patients under the 1938 Act or of patients otherwise suffering from mental illnesses of a psychotic nature. Indeed, the restrictions to which the applicant was subject were no more than the normal requirements for the care of a child of twelve years of age receiving treatment in hospital. The conditions in which the applicant stayed thus did not, in principle, differ from those obtaining in many hospital wards where children with physical disorders are treated.
Regarding the weight which should be given to the applicant's views as to his hospitalisation, the Court considers that he was still of an age at which it would be normal for a decision to be made by the parent even against the wishes of the child. There is no evidence of bad faith on the part of the mother. Hospitalisation was decided upon by her in accordance with expert medical advice. It must be possible for a child like the applicant to be admitted to hospital at the request of the holder of parental rights, a case which clearly is not covered by para. 1 of Article 5."

33. It is submitted by Mr Krumins that the interpretation of the determination in *Nielsen* is not that parental consent fulfils the *Storck* component (b), but that the exercise of parental authority by the mother in order to seek treatment of her child meant that the restrictions imposed did not amount to a deprivation of liberty. I do not consider that is a correct interpretation.

34. In *AGNI,* the Supreme Court considered *Nielsen* (above) and the important case of *Stanev v Bulgaria (2012) 55 EHRR 22, GC.* Having done so, they stated:

163. As regards the subjective aspect, the court observed (para 130) that "there are situations where the wishes of a person with impaired mental faculties may validly be replaced by those of another person acting in the context of a protective measure and that it is sometimes difficult to ascertain the true wishes or preferences of the person concerned. However … the fact that a person lacks legal capacity does not necessarily mean that he is unable to comprehend his situation [citing Shtukaturov, para 108]". Mr Stanev was in fact well aware of his situation; he explicitly expressed his desire to leave the care home both to the psychiatrists treating him and by making a number of unsuccessful applications to vary the terms of his guardianship in order to secure his release from the home. Accordingly, at para 131, the court distinguished HM v Switzerland and concluded that the applicant had not consented to the placement, nor had he "accepted it tacitly". The court therefore held that there was a deprivation of liberty for the purposes of article 5(1). The importance of the views expressed by the applicant was further emphasised at para 153 (see para 139 above).
164. Two comments should be made about the important judgment in Stanev. First, the Grand Chamber accepted that if an individual is in a condition where their wishes cannot be ascertained, in an appropriate case their views may "validly be replaced by" those of someone acting to protect their interests (see also the explanation of the Nielsen judgment given in HL, para 93: para 156 above). This indicates that, when assessing whether there is a deprivation of liberty under article 5, the mere fact that the individual concerned is incapable of expressing any view does not lead to the conclusion that the subjective element of a deprivation of liberty is made out. On the contrary, in an appropriate case it may lead to the conclusion that the subjective element is assessed

by reference to the view of the person with authority to make decisions for the individual, in their best interests. The court's analysis of the Nielsen judgment confirms this. Secondly, in analysing the subjective element, it is the factual capacity of the individual to understand their situation sufficiently to express a view about it which is important, not their legal capacity. (underlining mine)

35. Although the above is obiter, these are weighty dicta which, in my judgment, support the proposition that in an appropriate case a parent or other holder of parental responsibility may make decisions for their child in the child's best interests and that decision-making may lead to the conclusion that there is valid consent — *Storck (b)*.

My Decision with Reasons

36. The local authority has on a previous occasion been granted permission to invoke the inherent jurisdiction under S100 CA 1989 to seek court authorisation for the deprivation of C's liberty latterly in an unregistered but bespoke placement. The application before me is not for court permission to accommodate C in an unregistered placement; rather, it is an application for court authorisation of C's deprivation of liberty at that placement. I agree with MacDonald J at paragraph 4 in *MBC v AM* (above). The power of a local authority to place a child in an unregistered children's home is *distinct and separate from* the power to authorise a deprivation of liberty. The authorisation sought by the Applicant is to deprive C of his liberty at that placement.

37. The first question for me to consider in this case is whether C is being deprived of his liberty. My task is to make a multifactorial assessment. I must consider the type, duration, effects and implementation of the restrictive measures. I must remember that the objective and subjective elements overlap. The purpose of the restrictions is relevant but not determinative. I must consider C's lived experience.

38. C is now 14 years old. The reality of his life is that his liberty is restricted by his autism and his severe learning disability. He has limited ability to understand his situation. C's daily life is structured. Departure from routine can result in severe dysregulation, outbursts of violence and self-harm. C does not see danger and cannot protect himself. Without constant supervision, he would be at risk of harm, probably significant harm, and would pose a risk of harm to others. C has constant supervision and support with up to four members of staff with him at any one time, although the ratio is more usually two to one. Their purpose is to help him with his care tasks and keep him safe. With the supervision and support of his carers, C can attend school and access the community. When in the community, reins are used to keep him safe. The doors and windows at his placement are locked to keep him safe. Such restrictions as are in place are a necessary response to C's profound needs. Without the level of care and supervision he receives, C's life would be significantly limited. C is mobile and driven by wants and needs. However, his wants and needs are not sophisticated. When C

attempts to leave his placement, he does not do so because he wishes to live elsewhere. C is not attempting to run away or show dissatisfaction with his placement. The evidence of his Guardian, which I accept, is that he simply wants to go outside because he enjoys going outside. Further, it is notable that since C was discharged from hospital into his current placement, C's behaviours have calmed and there has been no need for physical intervention and restraint. C cannot say what he thinks about his new placement, but all the indicators are that the placement and package of care are meeting his needs and thus his dysregulation has lessened. There is nothing within his behaviours which suggests that C objects to the circumstances in which he lives or the restrictions in place. There is nothing to suggest he is being coerced.

39. The carers who provide C with constant supervision enable C to access the outside world safely. Their purpose is neither to detain C nor to restrict his freedom. Their purpose is to enable and enhance his freedom whilst keeping him safe. C could not safely exist without the level of care and supervision afforded to him; in fact, for C to enjoy liberty, his supervision is necessary. C's situation is far removed from the paradigm case of deprivation of liberty, namely detention. Thus, the local authority and the children's Guardian submit that the objective element — Storck (a) — is not met in this case. I agree.

40. Further, C's parents agree to the care and support package that C is receiving at his current placement. They do so in full knowledge of the restrictive measures and the level of supervision their son receives. They know that the placement is unregistered but that alternative safeguards have been put in place until registration can be achieved. In giving their agreement, C's parents are exercising their parental responsibility to ensure that their son receives the care and support he needs. They are loving and caring parents who are engaged in their son's care planning and all the evidence is that they consistently act in his best interests. The decisions they take about his care package and the nature of the restrictions that it involves fall within the zone of their parental responsibility. Whilst C can express a wish to go outside or lead a carer to what he wants, he cannot form an informed view about his placement and his restrictions. C's parents take the decisions for him. They do so to protect him and ensure that he is safe. C's mother visits him almost daily and is well placed to judge whether the placement and the package of care there, including the restrictive measures, are in his best interests. She is best placed to voice her concern if any of the restrictive measures in place to enhance C's life should become contrary to C's best interests or should C begin to manifest dissatisfaction with them. In the circumstances, this appears to me to be an appropriate case, as envisaged by the Supreme Court at paragraphs 163–164 of *AGNI, to* conclude that the subjective element should be assessed by reference to their views. Accordingly, in my judgment, there is appropriate and valid consent in this case.

41. Thus, I conclude that in the circumstances of this case C cannot be said to be being deprived of his liberty. The local authority's application for the court's authorisation to deprive him of his liberty is accordingly dismissed.

42. In argument, it was mooted that the court's authorisation under the inherent jurisdiction may be required to permit the local authority to accommodate C in an unregistered placement, although ultimately no party sought such a declaration. I consider that that was a sensible position for all parties to adopt. The power of a local authority to place a child in an unregistered children's home is separate and distinct from the power to authorise a deprivation of liberty. A local authority has statutory duties under the CA 1989 and the 2021 regulations which it must fulfil. If it does not, then the local authority's decision-making is open to challenge by judicial review.

43. That is my judgment.