



## Restricting movement or depriving liberty?

Neil Allen

It is “perilous to transpose the outcome of one case to another where the facts are different”: *R (Gillan) v Commissioner of Police of the Metropolis* [2006] 2 AC 307, at [23].

But they may be of interest ....

CASE	RESTRICTIONS	DOL?
<i>DD v Lithuania</i> [2012] ECHR 254	<ul style="list-style-type: none"> <li>- Admitted to a social care home upon the request of her guardian without court involvement.</li> <li>- Management exercised complete and effective control by medical and supervision over her assessment, treatment, care, residence and movement for over 7 years with negligible prospects of leaving.</li> <li>- The rules of the institution meant that she was not free to leave without management’s permission.</li> <li>- Brought back by police when she tried to leave without permission.</li> <li>- Care home director had full control over whom she could see and from whom she could receive telephone calls.</li> <li>- On one occasion she was placed on a secure ward, given drugs and tied down for 15-30 minutes.</li> <li>- She unequivocally objected to the situation throughout her entire stay; requested discharge on a number of occasions; and twice attempted to escape.</li> </ul>	Yes
<i>Stanev v Bulgaria</i> [2012] ECHR 46	<ul style="list-style-type: none"> <li>- Placement in a social care home isolated in the Bulgarian mountains – housed in a block which he was able to leave.</li> <li>- Able to go to nearest village but needed express permission. Time away from the home was subject to controls and restrictions.</li> <li>- 2002-2009 granted leave of absence for 3 short visits to Ruse (of about 10 days). Leave entirely at the discretion of home’s management who kept his identity papers and administered his finances, including transport costs. Placed significant restrictions on his personal liberty.</li> <li>- Ruse was 400km away. Isolated mountain location made any journey difficult and expensive.</li> <li>- Home management asked Ruse police to return him when he failed to return from leave of absence. Staff returned him in the end without regard for his wishes.</li> <li>- Under constant supervision and was not free to leave the home without permission whenever he wished.</li> <li>- His health did not put him at immediate risk or require the imposition of any special restrictions to protect his life and limb.</li> <li>- Duration of measures not specified and was thus indefinite. He felt the full</li> </ul>	Yes



	<p>adverse effects of the restrictions imposed on him.</p> <ul style="list-style-type: none"> <li>- Never explicitly consented to the placement, contrary to domestic law. Taken there by ambulance and placed without being informed of reasons or duration. Since at least 2004, he explicitly expressed his desire to leave the home to psychiatrists and through court challenges.</li> </ul>	
<p><i>C v Blackburn with Darwen BC</i> [2011] EWHC 3321</p>	<ul style="list-style-type: none"> <li>- Required by guardian local authority to reside at care home.</li> <li>- Locked doors.</li> <li>- 1:1 supervision inside and outside.</li> <li>- Distraction used if he otherwise tried to leave.</li> <li>- C did not like care home and wanted to live elsewhere.</li> </ul>	No
<p><i>Secretary of State for Justice v RB</i> [2011] EWCA Civ 1608</p>	<p>Tribunal discharge conditions:</p> <ul style="list-style-type: none"> <li>- Resides at the care home.</li> <li>- Abides by the rules of that institution.</li> <li>- Does not leave the grounds of the care home except when supervised.</li> <li>- Accepts his prescribed medication.</li> <li>- Engages with social supervision.</li> <li>- Engages with medical supervision.</li> <li>- Consent was not valid and unfettered from coercion.</li> </ul>	Yes
<p><i>Cheshire West County Council v P</i> [2011] EWCA Civ 1257</p>	<ul style="list-style-type: none"> <li>- 39 year old man with cerebral palsy and Down's syndrome living in supported accommodation in Cheshire, authorised by the Court.</li> <li>- Spacious bungalow not designed for compulsory detention.</li> <li>- Encouraged to have regular contact with family; attended day centre; had good social life.</li> <li>- Ensured P's life was as normal as possible.</li> <li>- Life completely under control of staff – could not go anywhere or do anything without their support and assistance.</li> <li>- Occasional aggressive behaviour and interference with incontinence products required physical intervention (occasionally a finger sweep) at times.</li> <li>- Wore a body suit, akin to a baby grow, to help manage continence.</li> <li>- Nothing to show that P's life at Z house was significantly different from the kind of life that anyone with his concatenation of difficulties could normally expect to lead, wherever and in whatever kind of setting they were living.</li> <li>- Nothing to show that P would not require the same kind of support and assistance wherever he was living and in whatever kind of setting.</li> </ul>	No
<p><i>R (Sessay) v SLAM NHS FT and Commissioner of the Police for the Metropolis</i> [2011] EWHC 2617 (QB)</p>	<ul style="list-style-type: none"> <li>- Police entered patient's home and removed her to a MHA s.136 suite, relying on MCA ss5-6.</li> <li>- Sessay remained in the hospital suite for 13 hours before being detained under MHA s.2.</li> <li>- Was separated from, and concerned about, her baby (taken into police care).</li> <li>- Co-operative for interview but threatened staff from time to time; banged glass window etc.</li> <li>- S.136 suite was unlocked but patients could not enter or leave unassisted. Trust staff, Sessay, AMHP and duty nurse believed she was being held under s.136. Staff would have prevented her from leaving had she tried.</li> <li>- Sessay was notified and understood that she was not free to leave the hospital.</li> </ul>	Yes



<p><i>Shimovolo s v Russia</i> (App no 30194/09)</p>	<ul style="list-style-type: none"> <li>- Taken to police station under threat of force and not free to leave for up to 45 minutes.</li> <li>- Element of coercion was said to be indicative of DOL.</li> </ul>	<p>Yes</p>
<p><i>Haidn v Germany</i> (App no 6587/04)</p>	<ul style="list-style-type: none"> <li>- Released from detention on probation and ordered by court to reside in an old people's home from 16 December 2003 until 3 March 2004.</li> <li>- Not free to leave without custodian's permission.</li> <li>- The Court had serious doubts whether the restrictions on the applicant's liberty of movement during that period amounted to a deprivation of liberty.</li> </ul>	<p>Question left open</p>
<p><i>Surrey CC v P and Q</i> [2011] EWCA Civ 190</p>	<p>Facts from first instance decision -</p> <p><u>P:</u></p> <ul style="list-style-type: none"> <li>- 18 year-old with a learning disability.</li> <li>- Stable and secure foster placement in which she was dependent on others. Could not live independently.</li> <li>- Could not go out on her own and showed no wish to do so. Could communicate her wants and wishes in a limited manner.</li> <li>- Lived in an ordinary domestic environment which P regarded as home. Not restrained; not locked. If she tried to leave she would be restrained for her immediate safety.</li> <li>- Continuous supervision and control was exercised over her to meet her care needs.</li> <li>- Limitations on movement were generally dictated by her inability and lack of awareness of danger.</li> <li>- No restrictions on social contacts except by court declaration.</li> <li>- Went to college where she was not under the control of her carer or the Local Authority.</li> <li>- Mother accepted P should remain where she was and had no objections to the care provided. Nor did she regard P as being confined or retained.</li> <li>- P's sisters supported the placement.</li> </ul> <p><u>Q:</u></p> <ul style="list-style-type: none"> <li>- 17 year-old with a learning disability.</li> <li>- Placed in a small residential home (3 other residents) after her foster placement broke down. Largely dependent on others; could not live independently.</li> <li>- Received Risperidone to control anxiety.</li> <li>- Had 1:1 (sometimes 2:1) support.</li> <li>- Challenging behaviour was being stabilised with management techniques – had to be restrained during outbursts.</li> <li>- Continuous supervision and control exercised to meet her care needs.</li> <li>- Not in a locked environment.</li> <li>- Could not go out on her own but showed no wish to do so.</li> <li>- No restrictions on social contacts except by court declaration.</li> <li>- Went to college where she was not under control of home or Local Authority.</li> <li>- Mother accepted Q should remain where she was and had no objections to the care provided. Nor did she regard Q as being confined or retained.</li> <li>- Q's sisters supported the placement.</li> </ul>	<p>No</p>



<p><i>Hillingdon LB v Neary</i> [2011] EWHC 1377</p>	<p>For the period 5.1.10 to 14.4.10</p> <ul style="list-style-type: none"> <li>- The support unit is a care home.</li> <li>- Steven did not want to be there and wanted to go home.</li> <li>- Mr Neary's request for Steven to be discharged was refused.</li> <li>- Mr Neary's subsequent acquiescence did not represent agreement, but a feeling that resistance was futile.</li> <li>- A programme of assessment of indeterminate length was embarked upon, with Steven's behaviour being meticulously controlled and recorded as part of the functional analysis programme.</li> <li>- Until 16 January he had no contact with his father at the request of the support unit.</li> <li>- Thereafter, and until 22 March, his parents were allowed to visit but not to take him out. His father visited 2/3 times a week and his mother 1/2 times a week.</li> <li>- Thereafter, an accompanied visit home took place on Monday afternoons as part of the transition programme.</li> <li>- Steven was allowed to attend most of his normal activities in the community accompanied by two carers.</li> <li>- He was under the eye of staff all times.</li> <li>- He was occasionally physically restrained, in the form of blocking and holding his hands, to prevent challenging behaviour and physical outbursts.</li> <li>- His daily care needs were provided under close supervision and control.</li> <li>- He continued voluntarily to take anti-psychotic medication to control his challenging behaviour and anti-epileptic medication to control his moods.</li> <li>- The doors to support unit were locked with normal household locks. He was not allowed out of the support unit on his own: when he got out on 11 April it was a cause for serious concern.</li> </ul> <p>Key features were his objection to being there, his father's objection, and the total effective control of his every waking moment in an environment that was not his home.</p>	<p>Yes</p>
<p><i>Re RK</i> [2010] EWHC 3355</p>	<ul style="list-style-type: none"> <li>- Friday to Sunday at home with parents and compliant with medicines.</li> <li>- During term time, at school and supervised.</li> <li>- When not at school or home, at KCH. Parents can visit any time. Closely supervised. Compliant with medicines. Only restrained on a few occasions to prevent her attacking others. Front door not locked. If she ran out she would be returned. Measures authorised by Regulations (SI 2001 No 3967).</li> </ul>	<p>No</p>
<p><i>BB v AM</i> [2010] EWHC 1916 (Fam)</p>	<ul style="list-style-type: none"> <li>- Away from her family in hospital.</li> <li>- In an institution under sedation in circumstances in which her contact with the outside world was strictly controlled.</li> <li>- Capacity to have free access to her family was limited, now by court order.</li> <li>- Movements were under the strict control and supervision of hospital staff.</li> <li>- Family were hostile to the placement.</li> </ul>	<p>Yes</p>



<p><i>A Local Authority v A</i> [2010] EWHC 978 (Fam)</p>	<p><u>A:</u></p> <ul style="list-style-type: none"> <li>- 8 year-old with Smith Magenis Syndrome.</li> <li>- Lived at home with family.</li> <li>- Doors and windows locked at all times and keys hidden; bedroom door locked during night.</li> </ul> <p><u>C:</u></p> <ul style="list-style-type: none"> <li>- 22 years old with Smith Magenis Syndrome.</li> <li>- Lived at home with parents.</li> <li>- Bedroom door bolted during the night.</li> </ul>	<p>No – both fell significantly short (§115).</p>
<p><i>SSHD v AP</i> [2010] UKSC 24</p>	<ul style="list-style-type: none"> <li>- 16 hour curfew.</li> <li>- Electronic tagging and restrictions on communication and association.</li> <li>- Required to live 150 miles away from family.</li> </ul>	<p>Yes</p>
<p><i>G v E and others</i> [2010] EWHC 621</p>	<ul style="list-style-type: none"> <li>- The concrete situation was that he was confined except when he was escorted to school or on visits or activities.</li> <li>- He was unable to maintain social contacts because of restrictions placed on access to other people, including family members. In particular, virtually all contact with his foster mother was prohibited for over eight months.</li> <li>- A decision had been made by the local authority that he would not be released into the care of others, or permitted to live elsewhere, unless such a move was considered appropriate.</li> <li>- He was prescribed Haloperidol, a neuroleptic medication, to reduce his agitation and more challenging behaviour. He had no control over the administration of that medication.</li> <li>- Physical, as well as chemical, restraint had been used.</li> <li>- Staff exercised complete control over E’s care and movements, and over assessments, treatment, contacts and residence.</li> <li>- E had no space or possession that was private or safe from interference or examination.</li> <li>- He was also being required to live with others who could not verbally communicate.</li> </ul>	<p>Yes</p>
<p><i>Gillan v UK</i> (2010) 50 EHRR 45</p>	<ul style="list-style-type: none"> <li>- Stopped and searched for less than 30 minutes.</li> <li>- During this period they were entirely deprived of any freedom of movement.</li> <li>- They were obliged to remain where they were and submit to the search and if they had refused they would have been liable to arrest, detention at a police station and criminal charges.</li> <li>- This element of coercion is indicative of a deprivation of liberty.</li> </ul>	<p>No need to decide</p>



<p><i>LBH v GP (Re MP)</i> (2009) FD08P01058</p>	<ul style="list-style-type: none"> <li>- Was able to socialise with small group of other occupants.</li> <li>- Came and went to and from and within the home as he pleased.</li> <li>- His views were expressed.</li> <li>- Local Authority did not regard themselves as authorised to keep him there against his will. If he wished to leave, they thought they required further authorisation.</li> <li>- If he tried to leave, they would have used their influence to seek to persuade him to stay but, failing that, would then get an authorisation.</li> </ul>	<p>No</p>
<p><i>Austin v Commissioner of Police of the Metropolis</i> [2009] 2 WLR 372</p>	<ul style="list-style-type: none"> <li>- 3000 protesters at Oxford Circus.</li> <li>- Police imposed an absolute cordon around the entire crowd, intending to then disperse them.</li> <li>- Conduct of protesters delayed dispersal. About 60% remained calm; about 40% were actively hostile, pushing and throwing missiles.</li> <li>- Kept there for 7 hours.</li> <li>- Sufficient space within the cordon for people to walk about and there was no crushing. But conditions were uncomfortable. The weather was cold and wet. No food or water was provided and there was no access to toilet facilities or shelter.</li> </ul>	<p>No</p>
<p><i>A Primary Care Trust v P</i> [2009] E.W. Misc 10</p>	<ul style="list-style-type: none"> <li>- Independent living went against P's expressed view of his desire to return to AH.</li> <li>- The degree of control to be exercised by staff.</li> <li>- Constraint on P leaving if it was his intention to go back to AH.</li> <li>- Power of staff to refuse request of AH for discharge of P to her care.</li> <li>- Necessary restraints on contact between P and AH:-             <ul style="list-style-type: none"> <li>o AH can only telephone P for 10 minutes at a time.</li> <li>o No restriction on calls P intends to make to AH.</li> <li>o 14-day suspension of face-to-face contact immediately on placement. At least 2 hours of contact per week away from placement thereafter.</li> <li>o Contact to be lightly supervised. Disruption would lead to suspension of contact.</li> </ul> </li> <li>- Fairly high degree of supervision and control within the placement.</li> </ul>	<p>Yes</p>
<p><i>Shtukurov v Russia</i> (Application no. 44009/05, 27 March 2008)</p>	<ul style="list-style-type: none"> <li>- Lacking legal capacity and mother appointed as guardian.</li> <li>- Confined in hospital on a locked ward at her request. It was treated as a voluntary admission, although the patient said it was against his will.</li> <li>- Prohibited any contact with the outside world; not allowed to keep any writing equipment or use a telephone. Diary confiscated.</li> <li>- Treated with strong medicines (Haloperidol and Chlorpromazine).</li> <li>- Hospital refused his request for access to lawyers and staff prevented him from meeting his friends.</li> <li>- In hospital for 6 months.</li> <li>- Not free to leave. Requested discharge on several occasions; contacted the hospital administration and a lawyer with a view to obtaining his release. Once he attempted to escape but staff captured and tied him to his bunk-bed. Given increased dosage of sedative medication.</li> </ul>	<p>Yes</p>



<p><i>Secretary of State for the Home Department v JJ</i> [2008] 1 AC 385</p>	<ul style="list-style-type: none"> <li>- Electronically tagged and required to remain at home for 18 hours a day.</li> <li>- The remaining 6 hours could be spent outside, but only within a designated urban area.</li> <li>- Visitors were not generally allowed and unauthorised people could not be met outside.</li> <li>- The police could conduct random searches of the flat and remove any items they wished.</li> <li>- Use of communications equipment was also restricted.</li> </ul>	<p>Yes</p>
<p><i>LLBC v TG</i> [2007] EWHC 2640</p>	<ul style="list-style-type: none"> <li>- 78 yrs, dementia, cognitive impairment after stroke.</li> <li>- Daughter and granddaughter wanted TG to live with them, but the local authority believed that TG needed 24-hour care in a residential care home.</li> <li>- Placed in care home for 11 months. It was an “ordinary” care home where only “ordinary” restrictions of liberty applied.</li> <li>- The family were able to visit TG on a largely unrestricted basis and were entitled to remove him from the home for outings.</li> <li>- TG was personally compliant and expressed himself as happy at care home. He had lived in a local authority care home for over three years and was objectively content with his situation there.</li> <li>- Some family members opposed the placement.</li> </ul>	<p>No, although near the borderline</p>
<p><i>JE v Surrey CC</i> [2006] EWHC 3459</p>	<ul style="list-style-type: none"> <li>- Elderly blind man with dementia and impaired memory was confined to a residential care home.</li> <li>- Had a significant degree of freedom within it.</li> <li>- Taken out for walks, and had regular telephone contact with his family and visits.</li> <li>- Staff would not accede to his repeated requests to return home.</li> <li>- Wife was told that the police would be called if she attempted to remove him.</li> <li>- Never subject to physical or chemical restraint.</li> </ul>	<p>Yes</p>
<p><i>Storck v Germany</i> (2005) 43 EHRR 96</p>	<p>(1) Locked ward of a private psychiatric clinic for 20 months. Presented herself with father. Attempted to escape on several occasions and brought back by police. Not allowed to contact others. Under continuous supervision and control of clinic personnel.</p> <p>(2) In psychiatric hospital for 1 year then admitted to same clinic for 4 months. Went in voluntarily with no attempt to leave. On day of admission, unable to speak with signs of autism. GP recommended her to go due to strong withdrawal symptoms after abruptly stopping medication.</p>	<p>(1) Yes</p> <p>(2) No</p>
<p><i>HL v UK</i> (2005) 40 EHRR 32</p>	<ul style="list-style-type: none"> <li>- On admission, sedated and brought to hospital then to IBU (latterly supported by 2 people).</li> <li>- Evidence before the House of Lords was unclear as to whether door was locked or lockable; although subsequent Ombudsman’s report said it was locked for most, if not all, of the time.</li> <li>- Lasted almost 3 months (22.7.97 to 29.10.97).</li> <li>- Lacked residence capacity.</li> <li>- Never attempted to leave but would have been prevented and a s.3 admission would have been considered.</li> <li>- Health professionals intended to exercise strict control over his assessment, treatment, contacts, movement and residence.</li> <li>- Contact with carers was directed and controlled by hospital. Carers first visited him on 2.11.97.</li> </ul>	<p>Yes</p>



<p><i>Enhorn v Sweden</i> (2005) 41 EHRR 30</p>	<ul style="list-style-type: none"> <li>- Court ordered he be kept in compulsory isolation in hospital for 3 months, renewed every 6 months.</li> <li>- From Feb 1995 to Dec 2001 but absconded several times for long periods.</li> <li>- Actual duration of detention was almost 1 ½ years.</li> <li>- Whilst isolated, he could go outdoors every day with hospital staff but not on his own.</li> <li>- Able to accompany staff on different activities outside hospital grounds.</li> <li>- Police returned him to hospital when he absconded.</li> </ul>	<p>Yes</p>
<p><i>Vasileva v Denmark</i> (2005) 40 EHRR 27</p>	<ul style="list-style-type: none"> <li>- Refused to reveal her identity to police officers therefore taken to police station.</li> <li>- Deprived of personal belongings, put in a waiting room at 9.45pm and moved to detention cell at 11pm.</li> <li>- Released at 11am the following day.</li> </ul>	<p>Yes</p>
<p><i>HM v Switzerland</i> (2004) 38 EHRR 17</p>	<ul style="list-style-type: none"> <li>- 84 year-old widow with a disputed diagnosis of senile dementia was placed in a foster home on account of serious neglect at home.</li> <li>- Initially could have stayed at home and been cared for but she and son refused to co-operate.</li> <li>- Placed in home by national court in her own interests to provide her with the necessary medical care, as well as satisfactory living conditions and hygiene.</li> <li>- Police employed to implement the original placement order which was of unlimited duration and served the purpose that she did not leave the foster home.</li> <li>- '[N]ot established that HM was legally incapable of expressing a view on her position, she had often stated that she was willing to enter the nursing home and, within weeks of being there, she had agreed to stay' - <i>HL v UK</i> at para 93.</li> <li>- Hardly felt the effects of her stay (mostly felt by her son who didn't wish to lose his mother).</li> <li>- She was undecided as to which solution she preferred.</li> <li>- At hearing, stated she had no reason to be unhappy with the foster home. It was assumed that she did not object.</li> <li>- Agreed to stay there; the original placement order was lifted as a result.</li> <li>- Entirely different regime to HL. Foster home was an open institution which allowed freedom of movement and encouraged contacts with outside world.</li> <li>- Not placed in the closed ward.</li> <li>- Could write letters and telephone the outside world.</li> </ul>	<p>No</p>
<p><i>Litwa v Poland</i> (2001) 33 EHRR 53</p>	<ul style="list-style-type: none"> <li>- Seriously visually impaired. Causing a public disturbance.</li> <li>- Taken by police to Sobering-up Centre by police (who left guide-dog on the street).</li> <li>- Detained for 6 ½ hours.</li> <li>- Not allowed to leave until sober.</li> </ul>	<p>Yes</p>
<p><i>Blume v Spain</i> (2000) 30 EHRR 632</p>	<ul style="list-style-type: none"> <li>- Taken 30km to a hotel to be handed over to families. Placed in individual rooms under supervision of recruited persons, one of whom remained permanently in each room.</li> <li>- Not allowed to leave rooms for first 3 days. 10 day hotel confinement in total.</li> <li>- Windows firmly closed with wooden planks and panes of glass taken out.</li> <li>- Subjected to a process of 'deprogramming' by a psychologist and psychiatrist. Questioned.</li> </ul>	<p>Yes</p>



<p><i>Amuur v France</i> (1996) 22 EHRR 533</p>	<ul style="list-style-type: none"> <li>- Separated from residents in a hotel in airport transit zone.</li> <li>- Held for 20 days.</li> <li>- Left to their own devices.</li> <li>- Placed under strict and constant police surveillance with no legal and social assistance until a humanitarian association put them in contact with lawyer.</li> <li>- Confinement not reviewed by court for some time.</li> <li>- Government argued the zone was closed on the French side but open to the outside so they could have left to Syria where safety was guaranteed.</li> </ul>	<p>Yes</p>
<p><i>Nielsen v Denmark</i> (1989) 11 EHRR 175</p>	<ul style="list-style-type: none"> <li>- Mother committed 12 yr old son to institution in exercise of parental rights.</li> <li>- Suffered from nervous condition/neurosis.</li> <li>- Lasted 5 ½ months.</li> <li>- On psychiatric ward of State hospital.</li> <li>- Door to ward locked (like all children's wards in the hospital). Conditions on ward were 'as similar as possible to a real home'.</li> <li>- Treatment didn't involve medication – just regular talks and environmental therapy.</li> <li>- Allowed to leave with permission (eg to library).</li> <li>- Went with other children with staff to playgrounds and museums and for other recreational and educational purposes.</li> <li>- Able to visit parents regularly and old school friends. Started going to school towards end of stay in hospital.</li> <li>- Nielsen claimed he was unable to receive visitors except in agreement with staff, special permission was required for him to use phone and for outside world to get in contact with him, under almost constant surveillance.</li> <li>- Absconded and was brought back to hospital by police.</li> <li>- Restrictions imposed were relaxed as treatment progressed.</li> </ul>	<p>No</p>
<p><i>Ashingdane v UK</i> (1985) 7 EHRR 528</p>	<ul style="list-style-type: none"> <li>- Patient on an indefinite restricted hospital order was transferred from Broadmoor to Oakwood hospital.</li> <li>- No surrounding wall. Neither its main entrance nor reception area was locked.</li> <li>- Given unescorted leave to go home every weekend from Thursday till Sunday.</li> <li>- Could come and go as he pleased from Monday to Wednesday, provided only that he returned to the ward at night.</li> </ul>	<p>Yes</p>
<p><i>Guzzardi v Italy</i> (1980) 3 EHRR 333</p>	<ul style="list-style-type: none"> <li>- Residence order confined a mafia member to a makeshift camp on a small part of the Asinara island, off the Sardinian coast.</li> <li>- Lived with his family but was subject to a 9 hour curfew.</li> <li>- He was able to move about the 2½ squared kilometre settlement during the rest of the day.</li> <li>- Could get permission to journey beyond its boundaries from time to time, although only under strict police supervision.</li> <li>- Had to report to the police station twice a day.</li> <li>- Not free to make social contact with the outside world.</li> <li>- Lasted more than 16 months.</li> <li>- Almost constant supervision.</li> <li>- Liable to punishment by arrest if failed to comply.</li> </ul>	<p>11/18 judges said yes</p>



<p><i>Engel and Others v The Netherlands (No 1)</i> (1976) 1 EHRR 647</p>	<ul style="list-style-type: none"> <li>- Penalties imposed upon serving soldiers for offences against military discipline.</li> <li>- Light arrest = confined during off-duty hours to their dwellings or to military buildings or premises, not locked up and continue to perform their duties (no DOL).</li> <li>- Aggravated arrest = in off-duty hours, soldiers serve the arrest in a specially designated place which they may not leave in order to visit the canteen, cinema or recreation rooms, but they are not kept under lock and key (no DOL).</li> <li>- Strict arrest = served by day and by night locked in a cell, excluded from the performance of their normal duties (DOL).</li> <li>- Committal to a disciplinary unit = akin to imprisonment (DOL).</li> </ul> <p>“59. A disciplinary penalty or measure which on analysis would unquestionably be deemed a deprivation of liberty were it to be applied to a civilian may not possess this characteristic when imposed upon a serviceman. Nevertheless, such penalty or measure does not escape the terms of Article 5 when it takes the form of restrictions that clearly deviate from the normal conditions of life within the armed forces of the Contracting States.”</p>	<p>Various</p>
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Neil has particular interests in human rights, mental health and incapacity law and mainly practises in the Court of Protection. Also a lecturer at Manchester University, he teaches students in these fields, trains health, social care and legal professionals, and regularly publishes in academic books and journals. Recent COP cases include Cheshire West and Chester Council v P [2011] EWCA Civ 1257, FP v GM and A Health Board [2011] EWHC 2778, Re MB [2010] EWHC 2508, G v E and Manchester CC and F [2010] EWHC 2512, [2010] EWHC 2042, [2010] EWCA Civ 822, [2010] EWHC 621.

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