Chapter 9: 16 and 17 year olds placed in foster homes, children’s homes and residential special schools - liberty restricting measures and questions for front line practitioners

The following list of measures might be identified in foster care arrangements, children’s homes or residential special schools. Some are more relevant to one care setting than another. The list also comes with an important health warning: if the measure would be universal for someone of that age and maturity who is disability-free, it should **not** be taken into account in determining whether the nuanced acid test is met.

- Decision on where to reside being taken by others;
- Decision on contact with others not being taken by the individual;
- Restrictions on developing sexual relations;
- Doors of the property locked, and/or chained, and/or bolted for security reasons or to prevent the children or young persons leaving;
- A member or members of staff accompanying the person to access the community to support and meet their care needs;
- Access to the community being limited by staff availability;
- Mechanical restraint, such as wheelchairs with a lapstrap or specialist harness;
- Varying levels of staffing and frequency of observation by staff;
- Provision of “safe spaces” or “chill out” rooms or spaces during the day or night from which the person cannot leave of their own free will (e.g padded tent to sleep in);
- Restricted access to personal allowances;
- Searching of the person and/or their belongings;
- Restricted access to personal belongings to prevent harm;
- Medication with a sedative or tranquilising effect;
- Physical restraint/intervention, such as with personal care tasks, breakaway or block techniques, distraction methods, staff withdrawing, physical touches or holds (e.g. “Team-Teach” methods);
- Restricted access to modes of social communication, such as internet, landline or mobile telephone or correspondence;
- Positive behavioural reward systems to reward “good” behaviour which might thereby involve restrictions on favoured activities or aspects of the curriculum to improve behaviour;
- Disciplinary penalties for poor behaviour;
- Restricting excessive pursuance of activities;
- Lack of flexibility, in terms of having activities timetabled, set meal times, expected sleep times;
- Managing food intake and access to it;
• Police called to return the person if they go missing;
• Restricted access to parts of the property, such as the kitchen or certain cupboards therein, to minimise health and safety risks.

Questions for front-line practitioners
These questions may help establish whether an individual is deprived of their liberty in this context:
• Compared to another person of the same age and relative maturity who is not disabled, how much greater is the intensity of the supervision, support, and restrictions?
• Can the person go out of the establishment without the carer’s permission? Can they spend nights away? How do the arrangements differ to the norm for someone of their age who is not disabled?
• To what extent is the person able to control his or her own finances? How does this differ to the norm for someone of the same age who is not disabled?
• Can the person choose what to wear outside school hours and buy his or her own clothes?
• To what extent do the rules and sanctions differ from non-disabled age appropriate settings?
• Are there regular private times, where the person has no direct carer supervision?
• What is the carer to person ratio and how different is this to what would usually be expected of someone of that age who is not disabled?
• Is physical intervention used? If so, what type? How long for? And what effect does it have on the person?
• Is medication with a sedative effect used? If so, what type? How often? And what effect does it have on the person?
• How structured is the person’s routine compared with someone of the same age and relative maturity who is not disabled?
• To what extent is contact with the outside world restricted?