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05 Mehefin 2026

Cabinet Minister for Health and Care
Welsh Government
5th Floor
Tŷ Hywel
Cardiff Bay
CF99 1SN

Sent via email to Correspondence.Mabon.apGwynfor@gov.wales

Dear Cabinet Minister,

RECENT UK SUPREME COURT JUDGEMENT ON DEPRIVATION OF LIBERTY SAFEGUARDS

I write following the recent UK Supreme Court judgement on deprivation of liberty safeguards, which changes how the law is interpreted and applied when deciding whether someone is being deprived of their liberty under the Mental Capacity Act. As you know, this change in interpretation takes effect immediately and has direct implications for people across Wales. We are therefore seeking early clarity on Welsh Government's response so that people's rights continue to be protected in practice.

We are concerned about the risks if this interpretation is not supported by clear guidance and safeguards. There is a risk that some people may lose not only formal legal protections, but also the independent review, advocacy and practical routes to challenge that help protect their rights in reality.

Cadeirydd / Chair: **Athro / Professor Medwin Hughes DL**
Prif Weithredwr / Chief Executive: **Alyson Thomas**
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We are also concerned that interpretation will vary across Wales, and that people whose wishes and feelings are not always clearly seen or heard may become less visible within safeguarding systems.

Where independent checks are reduced, there is a greater risk that restrictive practice, neglect or poor decision-making will go unnoticed, particularly in places where people cannot easily speak up for themselves.

This risks undermining key principles that matter to people in Wales: that their rights are upheld consistently; that their voice is actively heard and never assumed; and that there is clear accountability where decisions affect what they can and can't do.

These changes come at a time when the current system in Wales is already under pressure, making early clarity and direction particularly important. While the new interpretation may reduce the number of formal cases, it does not remove the need to make sure that people's rights are properly safeguarded and applied consistently across Wales.

Without early national direction and interim Welsh guidance, there is a real risk of a postcode approach to people's rights across Wales, with different expectations, thresholds and practice emerging across NHS bodies, local authorities and providers.

We also know that people who may be affected by this judgement are likely to be worried about what it means for them or for their loved ones. At a time of uncertainty, people will need clear, accessible communication that explains what this ruling changes, what it does not change, and how individuals' rights and safeguards will continue to be protected in practice.

In this context, we would welcome early clarification on:

Immediate action: what urgent steps are being taken to issue interim national guidance in Wales on the application of the revised interpretation, including clear expectations for NHS bodies, local authorities and other providers.

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Consistency and accountability: how Welsh Government will ensure consistent interpretation and practice across Wales, with appropriate oversight, monitoring and accountability during this period of change.

Communication and reassurance: what communication is planned for people who may be affected by this judgement - including families and carers - to explain clearly what will happen as a result of the ruling, and how rights, safeguards and support will continue to be protected.

Protecting people's rights in practice: what measures will make sure individuals do not lose safeguards in practice, including access to independent review, advocacy and routes to challenge, particularly for those who may find it hardest to make their views known.

At Llais, we will continue to bring forward the experiences of people across Wales. It is essential that this change in interpretation strengthens rather than weakens people's ability to have their rights respected, their voice heard, and their care shaped around what matters to them.

We would welcome your early response letting us know how these issues will be addressed, including the timescales for action.

Yours sincerely



Alyson Thomas
Chief Executive

Croesewir gohebiaeth yn y Gymraeg a'r Saesneg. Os byddwch yn ysgrifennu atom yn Gymraeg, byddwn yn ateb yn Gymraeg. Ni fydd hyn yn arwain at oedi wrth ymateb i'ch gohebiaeth.

We welcome correspondence in Welsh and English. If you write to us in Welsh, we will answer in Welsh. This will not lead to a delay in responding to your correspondence.

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