



A Local Authority (Respondent) v JB (by his Litigation Friend, the Official Solicitor) (Appellant)

Easy Read case summary

This is an Easy Read version of the UK Supreme Court web page of the case details for [A Local Authority \(Respondent\) v JB \(by his Litigation Friend, the Official Solicitor\) \(AP\) \(Appellant\)](#).

Introduction

If we use any difficult words, we put them in **bold** and explain what they mean.

This case will be explained through:

- 1) The issue being decided
- 2) The facts of the case
- 3) How the case has come to the Supreme Court

The issue

The question in this case is about understanding **capacity to consent** to sexual activity.

Capacity is whether someone is able to make their own decisions about something.

Consent is whether someone who has capacity to decide something freely agrees to do it.

Consenting to sexual activity must happen before the sexual activity starts and must continue throughout the sexual activity.

In this case, the questions the judges will consider are:

In order to have capacity to consent to sex:

- Does a person need to understand that their sexual partner must have the capacity to consent to sex?
- Does the person also need to understand that their sexual partner must consent before the sexual activity starts and that their consent must continue throughout the sexual activity?

The facts

The **appellant** is the person or group bringing the case to the Supreme Court.

The **respondent** is the person or group defending their position.

- The appellant in this case is called JB.
- JB is 37 years old.
- JB has autism and **impaired cognition**.

Impaired cognition is when people have difficulty learning, remembering, or concentrating. This can sometimes mean that they need help from a carer and cannot live alone.

- JB wants to have a girlfriend and to have sex.
- The respondent in this case is the local authority.
- The local authority said that because of his past behaviour with women, JB cannot be left alone with women safely.

The timeline

Step 1 The Court of Protection

The local authority applied to the **Court of Protection** to find out if JB had capacity to consent to sexual relations, amongst other things.

The Court of Protection is a court. Amongst other things, it judges whether people have the **capacity** to make decisions for themselves.

Evidence from experts said that JB understands how sex works, the risks of pregnancy and sexually transmitted diseases.

However, the experts said that JB has little understanding of consent.

The Court of Protection said that, to have capacity to consent to sex, a person does not need to understand that their sexual partner must be able to consent to sex.

It also said that the person does not need to understand that their sexual partner must consent before and throughout the sexual activity.

The Court of Protection said that JB does have the capacity to consent to sex.

Step 2

The Court of Appeal

The local authority disagreed with the Court of Protection, so the case went to the **Court of Appeal**.

The Court of Appeal is a higher court than the Court of Protection.

The Court of Appeal disagreed with the Court of Protection.

The Court of Appeal judges decided that for someone to have capacity to consent to sex, they need to understand that their sexual partner also needs to have capacity to consent to sex.

The judges also said that the person must also understand that their sexual partner must consent before and throughout the sexual activity.

The Court of Appeal left it to the Court of Protection to determine whether, given the Court of Appeal's decision, JB has the capacity to consent to sex.

Step 3

The Supreme Court

JB now takes his case to the **Supreme Court** because he disagrees with the Court of Appeal.

The Supreme Court is the highest court in the United Kingdom where judges will make the final decision.

It will say whether, for a person to have capacity to consent to sex, they need to understand that their sexual partner must have the capacity to consent to sex.

The judges at the Supreme Court will also decide whether a person needs to understand that their sexual partner must consent before and throughout the sexual activity.