



## Easy Read Press Summary of **A Local Authority (Respondent) v JB (By his Litigation Friend, the Official Solicitor) (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 decision of the Supreme Court
- 3) The reasons for the Supreme Court's decision

### 1. Issue being decided

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 Supreme Court had to 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?

If you want to read about the background to this case, and how it came to the Supreme Court, please click here: [Easy-read case summary A Local Authority](#)

[\(Respondent\) v JB \(by his Litigation Friend, the Official Solicitor\) \(AP\) \(Appellant\) \(supremecourt.uk\)](#)

## 2. The Decision of the Supreme Court

The Supreme Court is the highest court in the United Kingdom, and its decision is final. The Supreme Court found that the Court of Appeal's decision was right. JB's appeal was therefore unsuccessful. JB cannot make any further appeals.

The Supreme Court confirmed that for a person to have capacity to consent to sex, they need to understand that their sexual partner must also have the capacity to consent to sex. The Supreme Court also confirmed that a person needs to understand that their sexual partner must consent before and throughout the sexual activity.

## 3. The Reasoning of the Supreme Court

Some of the reasons the Supreme Court based its decision on are:

1. It is important that the Court of Protection is able to consider all relevant information when making decisions about capacity, if that information helps protect members of the public, as well as people who may lack capacity.
2. It is relevant to take into account the other person's capacity to consent to sex, because sexual relations must be **consensual**. Consensual sex means both people agree to have sex and continue to agree to having sex throughout.
3. There is no problem with applying a higher standard to consent in civil law as opposed to the standard of consent in certain criminal contexts if that is in the interests of protecting members of the public.
4. This decision is **compatible** with article 8 of the European Court of Human Rights, which provides for a right to respect for an individual's private and family life. Compatible means that two things are able to exist together.