

**LIBERTY**

PROTECTING CIVIL LIBERTIES  
PROMOTING HUMAN RIGHTS

**Liberty's Written Submissions to the  
Health Committee's Suicide Prevention  
Inquiry**

**September 2016**

## About Liberty

Liberty (The National Council for Civil Liberties) is one of the UK's leading civil liberties and human rights organisations. Liberty works to promote human rights and protect civil liberties through a combination of test case litigation, lobbying, campaigning and research.

## Liberty Policy

Liberty provides policy responses to Government consultations on all issues which have implications for human rights and civil liberties. We also submit evidence to Select Committees, Inquiries and other policy fora, and undertake independent, funded research.

Liberty's policy papers are available at

<http://www.liberty-human-rights.org.uk/policy/>

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1. Liberty welcomes the opportunity to submit written evidence to the Health Committee's inquiry into the prevention of suicide. We seek to draw on our experience as a human rights campaigning organisation in providing our response.
2. As part of its work in promoting and protecting human rights, Liberty intervenes as an independent third-party in human rights cases of public importance, both in the UK and at the European Court of Human Rights. In 2008 and 2012, Liberty intervened in support of the families of individuals who have committed suicide after receiving psychiatric care which failed to properly protect them. These cases have demonstrated crucial gaps in legal protection for those at risk of suicide.

### ***The Human Rights Act***

3. The Human Rights Act lays down modest but crucially important safeguards for members of the public against threats to their safety, whether a victim of crime or receiving treatment in hospital. In short, the authorities must act reasonably and appropriately to protect the public from threats to life and limb.
4. For the law to be effective, the public needs to be able to hold the authorities to account for clear failures to act appropriately. This is at the heart of the Human Rights Act. From victims of crime failed by the police to those in mental health crisis and not receiving the care they need, the Act is a crucial means of holding the authorities to account.
5. If you are at risk of committing suicide as a result of severe mental illness, it is plainly right that the state treats your case with the utmost urgency, doing all it reasonably can to safeguard your life. But the Human Rights Act in no way renders the authorities liable for each and every failure, no matter how trivial or unavoidable. It lays down a baseline standard of decency and dignity, whoever you are. This is what we all expect from our shared vision of human rights and equal treatment.

### ***Case studies***

6. In 2008, Liberty intervened – along with Mind and other organisations – in support of Anna Savage, whose mother, Carol, committed suicide after escaping from Runwell Hospital. Suffering from paranoid schizophrenia, she had been compulsorily detained for treatment in an open acute psychiatric ward under section 3 of the Mental Health Act (MHA).

7. The House of Lords found that the hospital had a duty under the Human Rights Act to safeguard the lives of those detained for mental health treatment, in light of Carol's right to life under Article 2.<sup>1</sup> With that judgment, the High Court went on to find that the hospital had breached Article 2 in failing to take reasonable measures to prevent Carol's escape and suicide.<sup>2</sup>
8. In Carol's case, an inquest jury had previously concluded that the precautions in place to stop her from escaping were "inadequate".<sup>3</sup> As the Supreme Court found, psychiatric hospitals must have "a proper system for supervising mentally ill patients".<sup>4</sup> In addition, where they know or ought to know that a patient presents a real and immediate risk of suicide, Article 2 requires that they must do "all that can be reasonably expected" to prevent him or her from committing suicide.<sup>5</sup>
9. Indeed, both the Court of Appeal and the House of Lords emphasised that individuals detained in psychiatric hospitals and at risk of suicide should receive the same protection as those detained in prison. As with anyone detained by the state, the authorities must do what is reasonable and proper to protect the lives of those in their custody. The Human Rights Act made clear that those suffering mental health crisis deserve the same protection as anyone else.
10. In 2012, the Human Rights Act demonstrated another gap in protection for those at risk of suicide, after the Supreme Court found that a NHS Trust had breached the right to life under Article 2.<sup>6</sup> Melanie Rabone was an informal, voluntary patient suffering severe depressive disorder, first admitted to hospital after an earlier suicide attempt and at high risk of suicide. Despite her mother's stated worries, Melanie was released on leave for the weekend and immediately killed herself. Liberty, along with Mind and other organisations, intervened to support her mother's claim.
11. Patients can be admitted on an informal basis for treatment with their consent. Section 131 of the MHA expressly provides that the Act does not prevent patients from voluntarily being admitted to hospital for treatment for mental illness. Patients may be admitted informally, but when so admitted they cannot be prevented from leaving without a decision to detain them involuntarily under section 5, pending a decision under section 2 or 3.

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<sup>1</sup> *Savage v South Essex Partnership NHS Foundation Trust* [2008] UKHL 74.

<sup>2</sup> *Savage v South Essex Partnership NHS Foundation Trust* [2009] AC 681.

<sup>3</sup> See paragraph 2.

<sup>4</sup> See paragraph 69.

<sup>5</sup> See paragraphs 72.

<sup>6</sup> *Rabone & another v. Pennine Care NHS Trust* [2012] UKSC 2.

12. No attempt was made to detain Melanie under the compulsory powers of the MHA. This was despite the fact that “the experts were agreed that it would have been appropriate to detain her under the 1983 Act if she had intended to leave the hospital without medical approval.” By failing to take reasonable steps to protect her from the risk of suicide arising from her mental illness, the Trust was found to have breached her right to life.
13. It is only right that we all receive equal protection from serious, life-threatening failures by the authorities. This is especially so for those detained by the state as a result of severe mental illness. As Lady Hale has stated in reaching her decision in *Rabone*, “People suffering from mental disorders have the same human rights as everyone else.” Cases brought using the Human Rights Act have helped to ensure that individuals at risk of suicide receive adequate and equal protection.
14. As Paul Farmer, Chief Executive of Mind, stated after the Supreme Court handed down its judgment,
- “Today’s judgment recognises that a positive duty is owed towards patients with mental health problems at times when they are most at risk of harm. The law now applies whether or not a patient has been formally detained. Now it is clear that in times of crisis everyone will have the strongest protection that the law can offer.”<sup>7</sup>
15. As academics have commented of *Savage* and *Rabone*, “These are welcome decisions, more so if the main consequence is that fewer patients abscond, and that fewer absconding patients come to harm, than would otherwise have been the case.”<sup>8</sup> As Gillian Rabone stated after winning her case, “I feel now as if Melanie’s death hasn’t been for nothing. It’s brought some good for very vulnerable people like Melanie was when she died – they have more protection.”

**Sam Hawke**

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<sup>7</sup> See Inquest, ‘Press release’, 8 February 2012, available here: <http://inquest.org.uk/media/pr/supreme-court-ruling-rabone>.

<sup>8</sup> See Bartlett, P., and Sandland, R., *Mental Health Law: Policy and Practice*, 4<sup>th</sup> ed., Oxford: Oxford University Press, 2014, p. 324.