



## Reynolds v. United Kingdom

Application no. 2694/08

**Country:** United Kingdom

**Region:** Europe

**Year:** 2012

**Court:** The European Court of Human Rights

**Health Topics:** Health care and health services, Hospitals, Medical malpractice, Mental health

**Human Rights:** Right to due process/fair trial, Right to life

### Facts

The applicant's son was admitted as a voluntary patient as he was diagnosed with schizophrenia and there was a fear that he might commit suicide. He was kept in a crisis room in the intensive care unit. However, on the first night itself, the applicant's son jumped out of the window and died. The applicant's action under the Human Rights Act 1998 was dismissed stating that there were no reasonable grounds for establishing medical negligence. The applicant alleged that there had been a violation of Article 13 (effective remedy) stating that there was no remedy for her to claim compensation for non-pecuniary damage.

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### Decision and Reasoning

The Court held that there had been a violation of Article 13 of the Convention. The Court stated that there arose a duty of care to protect the applicant's son, furthermore because there was an imminent risk of suicide. It also considered the case of *Rabone and Another v. Pennine Care NHS Foundation* where the UK Supreme Court found that a duty of care existed towards voluntary psychiatric patients and to protect patients such as the applicant's son from committing suicide. The Court stated that this remedy of non-pecuniary damages was not available to the applicant when she filed the application. Therefore, no effective remedy was available to her.

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### Decision Excerpts

“The applicant's son had a history of schizophrenia and was known to the health services. Having suffered a relapse of his psychotic symptoms, including voices telling him to kill himself, he was assessed as a low suicide risk and transferred as a voluntary patient by the NHS Trust to an ISMOS Unit for which the Council was responsible. At one point during the evening before he died, he was found wandering outside the ISMOS Unit and encouraged by staff to return, which he did. Moreover, the applicant's son later broke a window in the Unit and fell to his death from the sixth floor of the building occupied by the Unit. The Coroner, concerned as he was about a psychiatric facility on a sixth floor, reported the incident to the NHS Trust under Rule 43 of the Coroner's Rules 1984. The windows have since been reinforced and the long term plan is to transfer the ISMOS Unit to a two-storey building. In such circumstances, the Court considers that there is an arguable claim that the position of the applicant's son was such that an operational duty arose to take reasonable steps to protect him from a real and immediate risk of suicide and that that duty was not fulfilled.” (Para 61)

“Moreover, and contrary to the Government's argument, this lack of compensation would itself reduce access to the civil remedy. The lack of compensation for non-pecuniary damage would almost certainly have had a negative bearing on any application by the applicant for legal aid to take civil proceedings and the Government did not dispute that she could not afford legal representation or that she would have required legal aid to effectively pursue any such negligence action (the above-cited *Bubbins* judgment, Â§ 172).” (Para. 66)

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