

Coroner's Act - Article 2 – by Andrea Barnes

Andrea Barnes recently submitted at a Pre-Inquest hearing in Truro that Article 2 was not engaged where a patient, suffering from mental health issues who had agreed voluntary admission to hospital, following a s.136 detainment by Police for a suicide attempt, had been subsequently discharged from hospital following 14 days of treatment as an in-patient, and was being provided with ongoing treatment in her home.

8 days after discharge she was found dead and the Coroner was asked by the family of the deceased to find that Article 2 was engaged where the deceased was continuing to have treatment in her home after discharge from hospital.

The Coroner agreed that whilst Article 2 could be engaged in the case of a patient suffering from mental illness whether voluntarily admitted to hospital or detained in a hospital by statute, he was persuaded there was a distinction to be drawn from the cases of *Savage v South Essex Partnership NHS Foundation Trust* [2008] UKHL 74 and *Rabone v Pennine Care Foundation Trust* [2012] UKSC 2.

The facts could be distinguished in that the deceased had been assessed for suicide risk before being discharged from hospital regardless of the fact that she had voluntarily admitted herself for treatment at the hospital and her risk for suicide was low.

Guidance also considered in *Osman v United Kingdom* (23452/94) [1999] 1 FLR 193. The Coroner ruled it was a fine line but on balance Article 2 was not engaged on this occasion where continuing help was provided in the home after assessment for suicide risk and discharge from hospital.

It is important to note that this was a public hearing held prior to the inquest (a pre-inquest hearing) and that the cause of death or facts leading to the death of the deceased have not yet been determined. The fact that Article 2 is not engaged on these facts does not limit the scope of the inquiry the Coroner can hold.

August 2014