

Ben's case – legal briefing 01.11.23

High Court approves settlement declaring that a learning-disabled man and his mother's human rights were breached

On 1 November 2023, the High Court approved a landmark settlement for a learning disabled and autistic man, Ben, whose human rights were breached when he lived at a care home called Veilstone between May 2010 – October 2011. Ben was subjected to a regime of cruel and inhumane treatment at Veilstone, including excessive restraint, denial of family contact, and the repeated use of a "quiet room" against him as punishment.

The claim under the Human Rights Act was brought against the local authority and NHS commissioners of Ben's placement at Veilstone: Devon County Council and the cluster of NHS Devon and Plymouth & Torbay Primary Care Trust. The Secretary of State for Health inherited legal responsibility for the claim as the original NHS commissioner no longer exists as a legal entity.

Veilstone was funded by the commissioners as an "aftercare" placement for Ben after he was discharged from Winterbourne View Hospital, where he also experienced abuse.

Court proceedings were issued for Ben and his mother in 2012. The legal claim was stayed pending the outcome of three criminal trials against former staff members at Veilstone. Twelve staff members were convicted of mistreating residents including Ben.

The settlement is legally significant because the final Court order issued by the High Court declares that Ben's rights under Articles 3 (the right not to be subjected to torture or inhuman or degrading treatment or punishment) and 8 (the right to a family and private life) of the European Convention on Human Rights were breached as a result of his mistreatment at Veilstone, and that the Article 8 rights of Ben's mother Claire were also violated.

Ben's claim

The breaches of Ben's human rights included:

Inhuman and degrading treatment contrary to Article 3 ECHR

1. A general standard of care at Veilstone that was wholly unacceptable and amounted to systematic neglect and cruelty.

Ben was subjected to a regime of punishment and control at Veilstone. His toys and clothes were confiscated from him because they were not "age appropriate". He had to complete chores and cleaning in the home before he was allowed trips out or phone calls with his family.

2. False imprisonment in a "quiet room" - a small, locked room without natural light, a bed or toilet facilities. Records showed that Ben was sent to the quiet room on 117 occasions, sometimes overnight, and that he would sometimes wet himself and be left in his own urine. Ben would often cry out and scream, and self-harm, without staff intervening or releasing him from the room.

The judge who oversaw the criminal trial, His Honour Justice Hart, commented on the quiet room in his sentencing remarks in 2016:

“At some point the wrong turn was taken which allowed the quiet room and garden rooms to be used. It became a way of life – it became the norm, a habit. Rather than care in the community it became lack of care in the community and systematic neglect. The Residents didn’t like it. The phrase that comes back to me, “If you kick off, you get the quiet room.” It was used as a form of punishment, and they were distressed and in discomfort when they left the room. Eventually they complied but that had no therapeutic value.”

3. Unnecessary and disproportionate use of physical restraint against Ben.

Violation of Ben's right to a family life contrary to Article 8 ECHR

4. Staff pursued a policy of limiting and controlling Ben’s contact with his family, as part of Veilstone’s behaviour management regime.

Ben's family visits were inappropriately restricted, on occasion as a means of control and punishment. Ben's family were not permitted to see him at all for the first month that he moved to Veilstone.

Ben was denied regular and private unmonitored communication with his family. His phone calls were listened to and recorded by staff.

Ben’s records show that he would repeatedly ask to see or speak to his family and that, at times, he would call out for his mum when he was in the quiet room.

Staff at Veilstone documented the abuse against Ben, and his reactions, in daily records.

Ben's family raised concerns about the Veilstone regime from an early stage. They contacted the commissioners about the closed culture at Veilstone, and that staff did not listen to family suggestions or concerns.

Ben's sister wrote to his psychiatrist in June 2010 to explain that Ben would understand the limits on family visits as a punishment against him. She raised concerns that Ben was not allowed to communicate via Makaton and that he was not being permitted to do activities he enjoyed, like dressing up.

Ben remained at Veilstone until October 2011, when he was removed on an emergency basis after a CQC inspection revealed the quiet room and unlawful deprivation of liberty of residents at Veilstone.

An expert psychologist instructed by Ben's solicitors diagnosed him with Post Traumatic Stress Disorder as a result of the abuse he suffered at Veilstone. The Defendant commissioners accepted that Ben had been caused psychiatric harm and that he remained affected by the abuse to this day.

Claire's claim under Article 8 ECHR

Claire and Ben have always been very close and were used to seeing each other regularly and speaking often. When Ben lived at Winterbourne View, he would see his mum around every two weeks, if not more frequently.

Claire's right to a family and private life was breached when Ben lived at Veilstone:

Veilstone staff pursued a policy of controlling Ben's contact with his mother, by limiting the extent of their contact; by controlling the content of their conversations; and by not permitting them to have private telephone conversations.

Claire was reprimanded by staff for behaving too "childishly" with Ben when she joked with him and had fun on family outings, or when staff listened to her phone calls with Ben.

Claire's visits were often cancelled by staff at the last moment. At one point, towards the end of Ben's placement, Claire was not allowed to see or speak to Ben for 42 days, causing her huge distress. Claire understands that Ben was told during this period that she had died. Claire made a complaint to the commissioners and contacted her MP. When she was allowed to see Ben again, staff shadowed them during her visit.

The violation of Claire's right to a family life had a profound impact upon her, and her relationship with Ben.

Claire had to endure the very difficult process of sitting through all of the criminal trials relating to abuse at Veilstone, listening to extensive evidence about the systemic abuse of vulnerable adults, including her son.

Claire remains affected by her own traumatic memories of her own mistreatment by Veilstone staff, whilst also supporting Ben to live with the effects of the abuse he suffered there.

The settlement

The Court approved settlement for Ben includes formal declarations that the Defendant commissioners acted unlawfully because Ben and Claire's human rights were violated, and orders the payment of compensation to Ben and Claire (the amount of which is confidential). The Defendants have also agreed to make formal apologies to Ben and his family.

Ben and Claire were represented in their human rights claim by [Catriona Rubens](#) and [Alison Millar](#) of Leigh Day solicitors, and [Jeremy Hyam KC](#) of 1 Crown Office Row Chambers.