



Press Summary

Judgment – Administrative Court (Mr Justice Eyre)

THE KING
on the application of
AOX **(Claimant)**

-and-

(1) SECRETARY OF STATE FOR HEALTH AND SOCIAL CARE

(2) NHS ENGLAND **(Defendants)**

-and-

(1) CHIEF CONSTABLE OF DEVON AND CORNWALL POLICE

(2) ROYAL CORNWALL HOSPITALS NHS TRUST (Interested Parties)

[2026] EWHC 1217 (Admin)

4th June 2026

Note: *This summary is provided to assist in understanding the decision of the court. It does not form part of the decision or the reasons for the decision. The only authoritative document is the full judgment of the court, which will be published on the National Archives (<https://caselaw.nationalarchives.gov.uk/>).*

1. The Claimant, AOX, sought a declaration that the Defendants, the Secretary of State for Health and Social Care and NHS England, were in breach of the investigative duties arising out of article 3 of the European Convention on Human Rights. It was the Claimant’s case that the Defendants had failed to establish an inquiry compliant with article 3 into abuse perpetrated by Mr Iuliu Stan, a locum senior house officer in the Trauma and Orthopaedics unit at the Royal Cornwall Hospital (“the RCH”).
2. The Claimant attended the RCH in November 2019, having cut his arm deliberately as an act of self-harm, and was treated by Mr Stan. Alone in a hospital room with Mr Stan, the Claimant requested morphine and gas and air to relieve his pain. Mr Stan told the Claimant that a suppository would be the most effective form of pain relief, and the other pain relief

sought by the Claimant would be unsuitable. Reluctantly and in severe pain, the Claimant agreed to the administration of medication *per rectum*.

3. There was no dispute between the parties that this experience was deeply distressing for AOX, that Mr Stan had treated a number of other men in a similar way while employed at the RCH, and that on at least some the occasions when Mr Stan administered medication *per rectum* he did so for sexual gratification.
4. Concerns about the conduct of Mr Stan were raised in March 2020 following a complaint that he had administered medication *per rectum* to a boy. Further concerns were raised in August of that year as Mr Stan was again both prescribing and administering medication *per rectum* to children. This led to an investigation by the Royal Cornwall Hospitals Trust (“the Trust”) and the suspension of Mr Stan. The investigation concluded that: Mr Stan had prescribed and personally administered medication *per rectum* over 200 times in the preceding five years; he had done so without following the Trust’s chaperone policy; and he had done so only in relation to male patients.
5. In considering the duties arising under article 3, the court must be guided by authorities addressing the corresponding duties under article 2, while recognising the distinct subject matter of each. In *R(Maguire) v Blackpool and Fylde Senior Coroner* [2023] UKSC 20, [2025] AC 63 the Supreme Court provided a binding exposition of the duties flowing from article 2:
 - i. The *systems duty* is the obligation on the part of the state to have appropriate legal regimes and administrative systems in place to provide general protection for the lives of citizens and persons in its territory.
 - ii. The *operational duty* is an obligation to take operational steps to protect a specific person or persons when on notice that they are subject to a risk to life of a particularly clear and pressing kind.
 - iii. The graduated procedural obligation:

- a) The *basic procedural obligation* is the obligation on state authorities to take steps to ascertain whether a death was from natural causes or as the result of criminal activity.
 - b) The *enhanced procedural obligation* arises when there is “a particularly compelling reason why the state should be required to give an account of how a person came by their death”, e.g. where a state agent has used lethal force, there has been a death in state custody, or where there are grounds for believing that there has been a breach of the systems or operational duty by a state agent.
 - c) The *redress procedural obligation* arises where the compelling reason which would give rise to the enhanced procedural obligation is not present, but there remains a possibility that the substantive obligations in article 2 have been breached. The obligation is to provide a means whereby a person complaining of such possible breaches may ventilate that complaint, have it investigated, and obtain redress. The investigation required to satisfy this duty will vary according to the circumstances, with civil or disciplinary remedies potentially significant in cases of negligence.
6. Accordingly, the court was required to apply the approach set out in *Maguire*, subject only such modification as results from the different subject matter of article 3. The court drew upon the approach to article 3 adopted by Johnson J in *R(MG) v Secretary of State for the Home Department* [2022] EWHC 1847 (Admin) at [5] – [8]. That is consistent with the analysis in *Maguire*, save Johnson J’s description of the investigative obligation under article 3 must now be read in light of the division into the basic procedural obligation (insofar as it

arises in article 3 cases), the enhanced procedural obligation, and the redress procedural obligation.

7. The investigations and other procedures undertaken or currently underway formed an important part of the context in which the claim was to be considered. These were: the internal investigation undertaken by the Trust, which led to the dismissal of Mr Stan; the referral to, and investigation by, the General Medical Council, which resulted in Mr Stan's erasure from the register; a police investigation currently underway; the contemplation of civil proceedings in respect of which the Trust has already admitted vicarious liability for the actions of Mr Stan.
8. The Claimant contended that it was not possible for the Trust to hold an independent investigation capable of discharging any duty under article 3 because (i) the Trust had demonstrated a fixed attitude and (ii) it will not be possible for an inquiry set up by the Trust to have the necessary degree of independence. In respect of that contention:
 - i. The court concluded that the Trust's behaviour to date did not justify proceeding on the basis that the Trust's attitude would prevent it from holding an adequate investigation.
 - ii. Furthermore, the court found that there was no basis for the assertion that the Trust would be unable to conduct a sufficiently independent investigation: the requisite independence must be "from those involved in the events" (*MG* at [8(7)]); the relevant events were the conduct of Mr Stan and the failure of those responsible for the RCH to stop that behaviour earlier. Therefore, there was no basis upon which to believe that the Trust was incapable of devising an inquiry with the necessary level of independence from those involved in the relevant events.
9. The court concluded that Mr Stan's treatment of the Claimant did amount to inhuman or degrading treatment, or at the very least arguably did so such as to be treatment capable of triggering the investigative duty under article 3 ECHR.

10. It was the Defendants' case that neither the Secretary of State for Health and Social Care nor NHS England were appropriate defendants and, to the extent that any claim was warranted, it ought to have been brought against the Trust. It was the Claimant's argument that both Defendants are emanations of the state who have the power to cause an appropriate investigation to be undertaken but had not done so; that the Defendants therefore are in breach of their article 3 obligations; and that a declaration should be made as a consequence.
11. The proper approach to be taken was to have regard to the particular person or body; to consider that person or body's role or function; and next to consider the duty which is said to have been broken. That is to say, the focus must be on the powers, responsibilities, and duties of the particular state entity against whom the claim is brought.
12. The court then turned to consider the particular duties.

The Systems Duty

13. The First and Second Defendants have systems in place for the inspection and oversight of hospitals and other healthcare services. The Claimant did not contend that they should have had different systems in place nor that those systems were not capable of operating effectively. Instead, the Claimant's criticism was of the systems operated by the Trust and the RCH, contending that the conduct of Mr Stan ought to have been identified and stopped earlier and more effectively.
14. It is well-established that the adequacy of a system is not to be judged with hindsight. The court did find some force in the contention that the systems at the RCH were inadequate, given that Mr Stan was able to continue his behaviour for some time after the initial complaint in March 2020. However, it is unclear whether there was a failure at any time before the Claimant's treatment by Mr Stan in November 2019.
15. The court proceeded on the basis that there was an arguable breach of the systems duty on the part of the RCH and/or the Trust, but not on the part of either Defendant.

The Operational Duty

16. The court found that there was no scope for any suggestion that either Defendant had breached their operational duty. The contention in this regard was of a breach at the RCH, but it was questionable whether by November 2019 the Trust or the RCH had the requisite knowledge for the operational duty to arise. The court found that it was arguable by that time that the practises of Mr Stan ought to have been noticed.
17. Therefore, the court again proceeded on the basis that there was an arguable breach of the operational duty on the part of the RCH and/or the Trust, but not on the part of either Defendant.

The Procedural Obligation

18. The court found that there was no basis for the enhanced procedural obligation to arise on the part of the First or Second Defendant, as there was no arguable breach of either the systems or the operational duty of either Defendant. Therefore, the question became one of whether the arguable breaches of the systems and/or operational duties on the part of the Trust give rise to the enhanced procedural obligation on the part of either Defendant. The court found that, because the Trust is capable of undertaking an adequate investigation, neither the First nor Second Defendant had a duty to commission an investigation where the body responsible for the operation of the RCH was capable of undertaking the necessary investigation.
19. Similarly, the court found that neither Defendant was in breach of the redress procedural obligation. There are, it concluded, ample means whereby the Claimant can ventilate his complaint and obtain redress.

Conclusion

20. As a consequence the court concluded that the Claimant had failed to establish that either Defendant was in breach of the investigative duty pursuant to article 3. Relief was accordingly refused.