

LIFE

## UN investigates whether UK violated Archie Battersbee's rights

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LIFE AND BIOETHICS

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Eight months after the death of Archie Battersbee, the schoolboy whose life-sustaining treatment was withdrawn against his parents wishes after a court battle, the UN Committee for the Rights of Persons with Disabilities (CRPD) has informed the UK

government it will assess whether the United Kingdom violated the disabled schoolboy's right to life. The UN Committee will also determine whether the UK violated the Optional Protocol of the UN Convention on the Rights of Persons with Disabilities, **ratified by the UK in 2009**, by ignoring the **UN interim measure** which required Archie Battersbee to be kept alive until it had examined his case. If found guilty the UK could face sanctions and required to pay compensation to Archie's mother Hollie Dance.

**"There's a lot at stake" Bruno Quintavalle, Ms Dance's barrister, told the *Daily Compass*.** The UK government has to explain to the CRPD why they killed Archie". "This important investigation by the UN CRPD will now clarify if these omissions [UK government's refusal to comply with the UN committee's interim measure] are compatible with the UK's Treaty obligations as well as set limits on future best-interests decision-making by the UK courts."

**Although a final verdict on the case could take years rather than months**, the matter is already a diplomatic embarrassment for the UK government. The decision to investigate if the UK High Court decision to withdraw treatment violated Archie's rights came after the UN had already rejected the UK government's arguments, presented in 21-page long submission, claiming Hollie's case is 'inadmissible' and 'an abuse of process' under the Optional Protocol. Instead, in a letter, the chief of the UN's Human Rights Treaties Branch, Ibrahim Salama, **informed Hollie's barrister Mr Quintavalle** supported by Christian Concern, they have considered the merits of Hollie Dance's complaint and have accepted her request for an investigation on behalf of Mr. Archie Battersbee.

**Archie's family had applied to the UN committee last July** on the basis the Convention had a protocol that allowed individuals and families to "make complaints about violations of disabled people's rights". Article 10 of the UN Convention that the UK subscribed to, specifies that "States Parties reaffirm that every human being has the inherent right to life and shall take all necessary measures to ensure it's effective enjoyment by persons with disabilities on an equal basis with others". Ms Dance's lawyers argue this is at odds with UK practice where NHS doctors routinely obtain authorisation through the Courts to switch off life support from disabled patients like Archie on the grounds that death not sustaining life is in their best interests.

**One of the most dramatic moments of the long protracted bitter legal battle** between Hollie Dance and the Barts Health NHS Trust representing Royal London Hospital doctors was precisely when the Court of Appeal judges **refused the request** from the UN committee under Article 4 of the **Optional Protocol to the Convention** to continue treating the schoolboy. It cleared the way for Archie's "choreographed

execution" hours later.

**A year has passed since Hollie found her son Archie unconscious** with a traumatic brain injury at home in Essex on April 7 2022 following a "prank or experiment" that went wrong, a coroner concluded. The schoolboy remained in a coma until his death in hospital four months later after his parents' had exhausted every legal avenue and a final request to move him to a local hospice for a "peaceful death" was refused. Speaking to the Daily Compass yesterday, Hollie Dance said she was relieved to receive the UN's response because she "has felt so betrayed by the UK government". "I can't bring Archie back now, but I want Archie's case to open a pathway for other families who want to fight for someone disabled in a similar situation to Archie's", she said. "Our rights as Archie's parents were taken away as soon as he went into hospital, I will fight for other parents to have the voice I never had for Archie", she added. The complaint Ms Dance instructed her lawyers to file to the UN after Archie's death which led to the UN's direct involvement in this case could serve this purpose.

**Moreover, the CRPD is already familiar with accusations of UK malpractice.** As far back as 2016, the CRPD had already found that "grave and systematic violations of disabled persons' rights" were taking place in the UK. And in 2017, the CRPD further criticised the UK stating: "The CRPD notes with concern that the substituted decision-making applied in matters of termination or withdrawal of life-sustaining treatment and care is inconsistent with the right to life of persons with disabilities as equal and contributing members of society."

**In only the last ten years, the UK has been the battle ground** for numerous acrimonious disputes between families embroiled in bitter legal battles against the NHS over its application of the "best interests" criterion to disabled patients. The list includes Charlie Gard in 2017, Alfie Evans in 2018, Isaiah Haastrup in 2018, Midrar Ali in 2020, RS in 2021 (the Polish citizen whose name was subject to a transparency order), Pippa Knight in 2021, Alta Fixsler in 2021 and more recently Archie Battersbee in 2022. Every case concluded with the premature death of the patient and accusations of medical paternalism.

**Interestingly, just four months after Archie's death** the Nuffield Council on Bioethics announced it has been commissioned by the Department for Health and Social Care to conduct an independent review of the disagreements that arise between families and healthcare teams in the care of critically ill children. In a statement, the Department of Health and Social care said: "We recognise the extraordinary complexity for parents and medical professionals when deciding what is in the best interests of a

critically ill child. "Every effort should be made to reach agreement, which is why we have commissioned the Nuffield Council on Bioethics to explore how best to achieve this. "The government is committed to making sure the views of families, carers and clinicians are at the centre of the review."

**Hollie Dance told the *Daily Compass*** she expects to be contacted by the Nuffield Council soon to explain what in her opinion went wrong in Archie's case". "I will tell them there's a time to be born and a time to die but it's not up to the State to make that decision, she said."