

A Human Rights Guide

by the British Institute of Human Rights & the
Indoamerican Refugee and Migrant Organization



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The British Institute
of Human Rights 

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About this guide

This guide has been co-designed by the British Institute of Human Rights (BIHR) and Indoamerican Refugee and Migrant Organisation (IRMO) as part of BIHR and Just Fair's "London Communities Programme". The guide includes stories and examples that have been provided by IRMO to show how human rights can be used to support people in the community.

This work has been funded by The Baring Foundation and City Bridge Foundation.



"At IRMO, we support migrants, asylum seekers and refugees who face multiple barriers to building secure and dignified lives in the UK. Families living in poor housing, parents struggling to secure school places, and individuals at risk of homelessness or being uprooted from their communities all experience situations where human rights are at stake. By understanding and using the Human Rights Act (HRA), our community, staff and volunteers can strengthen their advocacy, challenge unfair decisions, and ensure that public authorities uphold their duties. Human rights arguments can be powerful tools in standing up to injustice, and we hope this guide will help you take the first step in bringing them confidently into your everyday lives and work."

How will this guide support me in my work?

This human rights guide has been co-produced by BIHR and IRMO for volunteers and staff at IRMO to understand how human rights work in the UK so they can support members of their community to use their human rights in their day-to-day lives.

You do not need to be a legal expert to use the HRA in your work. In many situations, simply raising human rights in letters, forms of conversations with public authorities can make them think carefully about their decisions. Using a human rights-based approach in your work might include using human rights language in case notes or referral letters, explaining a service user's situation using rights-based arguments, or signposting/referring cases for legal advice, among other approaches.

Community members can also use this guide to inform their own advocacy knowledge and to support one another.

The guide will cover:

- ▲ What human rights are and how they are protected
- How the Human Rights Act works
- Human rights most relevant to your work
- ✳ Real-life stories and case studies provided by IRMO
- ▲ Human Rights letter templates



What are human rights?

Human rights are the basic freedoms we all have.

They allow us to be:

- Treated with dignity
- Treated fairly
- Treated with respect
- Listened to and given a say over our lives



Most importantly, human rights are not just values, they're not gifts or rewards from the government, our human rights are protected by law under the Human Rights Act 1998.

What is the Human Rights Act and how does it work?




The Human Rights Act 1998 is a law in the UK that places rules on how we should be treated by public authorities and their staff. If public authorities fail to look after our rights, the Human Rights Act means that we can challenge this treatment.

The Human Rights Act 1998 is a law in the UK that places rules on how we should be treated by public authorities and their staff. If public authorities fail to look after our rights, the Human Rights Act means that we can challenge this treatment.

Human rights aren't rewards from the government, and it isn't just about public authorities being nice to us. It is a law that public authorities must follow to make sure we are treated fairly, treated with respect, listened to, and given a say over our lives.

The rights in the Human Rights Act are taken from the European Convention on Human Rights (ECHR). The UK helped write the Convention. Before we had the Human Rights Act in the UK, you had to go to the European Court of Human Rights (ECtHR) (in France) to get help, and it can take years to get your case heard. The Human Rights Act means you can now use the justice system here in the UK.

The rights in the Human Rights Act 1998

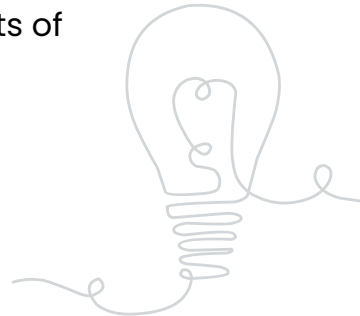
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|  <p>Article 2 The right to life</p> |  <p>Article 3 The right to be free from torture and inhuman or degrading treatment</p> |  <p>Article 4 The right to be free from slavery and forced labour</p> |  <p>Article 5 The right to liberty</p> |  <p>Article 6 The right to a fair trial</p> |  <p>Article 7 The right not to be punished for something that wasn't against the law when you did it</p> |
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|  <p>Article 1, Protocol 1 The right to peaceful enjoyment of possessions</p> |  <p>Article 2, Protocol 1 The right to education</p> |  <p>Article 3, Protocol 1 The right to free elections</p> |  <p>Article 1, Protocol 13 Abolition of the death penalty</p> | | |

The Human Rights Act 1998 contains 16 human rights that we all have. You can read more about all these rights [here](#), or by scanning this QR code:



Who has human rights?

Human rights are universal. This means that everyone who is living in the UK has human rights. It doesn't matter who they are, where you were born, or what your immigration status is. The Human Rights Act protects the rights of everyone in the UK.



Who has a legal duty to look after our human rights?

The Human Rights Act 1998 places a legal duty on public authorities and their staff, or bodies providing a public function, to respect, protect, and fulfil our human rights:



Respect – Respecting our human rights means that public authorities should not do anything that could unlawfully limit our human rights.



Protect – Protecting our human rights means that public authorities should step in and take action if they see that our rights are at risk.



Fulfil – Fulfilling our human rights means investigating when something has gone wrong with our human rights to try to stop this from happening again.

This means that at every point in their work, public authorities should be acting in a way that is compatible with our human rights.

The Human Rights Act also says that public authorities and their staff must also apply all laws, policy and guidance, in a way that respects human rights (as far as possible).

What is a public authority?

A public authority is someone who works on behalf of the government. For example, local authorities, the home office, police, or the NHS.

Sometimes, private bodies work on behalf of the government.



They only have duties to protect our human rights where they are performing their role in a public capacity. For example: A private doctor working for the NHS, a carer from a care agency working for the NHS, private companies providing housing services, specifically for the Home Office.

Private individuals or organisations that aren't doing work for the government do not have legal duties to respect, protect or fulfil our human rights. For example:



- Parents
- Friends
- Shop workers and managers
- Employers unless they are a public body like the NHS or the council

Only public authorities or private bodies working on behalf of the government have a legal duty to protect our human rights.

Can our human rights ever be limited?

Our human rights can never be taken away from us, however there are some situations where our rights can be lawfully limited. The Human Rights Act gives accountability to public authorities, and it lets us know where the line is.

Absolute rights

Some of the rights in the Human Rights Act are absolute rights. This means they can never be lawfully limited. Public authorities must always respect, protect, and fulfil our absolute rights and never limit them for any reason. If a public body is limiting an absolute right this may be unlawful, and immediate action is required as there is never any legal justification for limiting an absolute right.

Examples of absolute rights are:



The right to life



The right to be free from inhuman and degrading treatment or torture



The right to a fair trial




Non-absolute rights

Most of the rights in The Human Rights Act are non-absolute rights. This means that they can lawfully be limited by public authorities so long as they can show that the limitation meets each part of this three-stage test:

- 1** Lawful – There must be a law that allows a public authority or their staff to limit our non-absolute rights. For example, The Education Act 1996, The Children and Families Act 2014, or The Immigration Act 2016.
- 2** Legitimate – There must be a good reason for a public authority or their staff to limit our non-absolute rights, such as the rights of others, public safety, our own safety. For example, a local authority denying a Fair Access Protocol to a child who has recently arrived in the UK because of the language barriers may not be a legitimate aim.
- 3** Proportionate – Public authorities must have thought about other things they could do, but there is no other way to protect the person involved or other people. It must be the least restrictive option. For example, waiting until someone has become destitute before removing a NRPF condition may not be a proportionate restriction of their rights.

If a public official or body cannot meet each part of this 3-stage test, then the limit on human rights they want to put in place is unlikely to be lawful.

Examples of non-absolute rights include:

-  The right to a private and family life, home and correspondence
-  The right to liberty
-  Freedom of expression



What does this mean to me?

The legal duty on public authorities and their staff to respect, protect, and fulfil our human rights, and to ensure that laws and policies are applied in a way that respects human rights, means that we can:



Speak up because everyone has human rights which should be respected and protected.



Ask public authorities to show how they are meeting their legal duty to respect and protect human rights.



Work with public authorities to find better solutions that respect our rights without the need to go to court or use a lawyer.





Article 14 – The right to be free from discrimination

The right to be free from discrimination is not a stand-alone right to be free from discrimination. It means that everyone should have equal access to their human rights.

Because of this, the right is often called a ‘piggy-back right’, meaning that when one of a person’s other rights in the Human Rights Act is at risk, they can also raise their right to non-discrimination if they are concerned that they do not have equal access to the right due to one or more of their characteristics.

The right to be free from discrimination protects us from discrimination based on several different characteristics, including sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, and birth. This list is open-ended because it then says, “or other status” which means it can also apply to a wide range of circumstances and can also include experiencing discrimination for combined reasons – such as being a young, Latin American disabled person.

This right means we should all be able to enjoy our Human Rights fairly and without discrimination. This means:

- 1 not being treated worse than other people in the same situation because of a characteristic you have.
- 2 not being treated differently when you are in a very different situation to others, for example not providing a translator when you really need it.

Not all differential treatment will be considered discrimination. A public authority must show that the difference in treatment is objectively and reasonably justified. This means that they have to show that the differential treatment was for a very good reason. For example, treating non-English speaking people differently by providing translators at a local council may be justifiable in order to help them understand and access welfare support.



Where this right may be relevant in your work:

- No recourse to public funds preventing access to some public authorities.
- Discrimination based on language, for example a lack of translations in Spanish or Latin which prevent you from being able to understand important information.
- Being denied mental health support due to nationality or immigration status.
- Lack of support for specific needs due to language barriers – beyond basic information in different languages, this could be public authorities not being able to understand specific medical concerns or other needs due to language barriers.
- Education access limited due to lack of availability and immigration status – some parents with precarious immigration status may be scared to send parents to schools for fear that they will be reported.
- Undocumented children being unable to access free school meals because parents are asked to show evidence they don't have due to being undocumented (i.e. a National Insurance number or proof that they receive certain benefits).



“Language discrimination continues to be a major issue, even in areas like Lambeth and Southwark where there are large Latin American populations. While many young migrants meet the official requirements for programmes and authorities, including attending ESOL classes, we’ve seen that language remains an unspoken barrier. Even when not formally recognised, it is often used to limit access to opportunities and reinforce exclusion.” – IRMO Member

Example of using human rights in the community

A mental health hospital had a practice of detaining asylum seekers using the Mental Health Act without using an interpreter even if they spoke little or no English. Members of a user-led mental health befriending scheme used human rights language to successfully challenge this practice after attending a BIHR session. They were able to argue that it breached the asylum seekers' right not to be discriminated against on the basis of language and their right to liberty.



Case study - Lisseth

Lisseth, a 28-year-old pregnant woman from Ecuador, does not speak English. Without the confidence to speak English on the phone, Lisseth avoided calling the midwife line and instead went to A&E whenever she felt pain or concern between appointments. No one told her that she had the right to request an interpreter over the phone.

At her first scan, no interpreter was provided, and Lisseth was unable to understand what the sonographer was saying. She left without the reassurance that her baby was healthy. Later, she was invited to attend an antenatal class to help prepare for the birth, but the session was delivered entirely in English.

Although an interpreter was present in the operating theatre during her caesarean section, Lisseth received no language support on the postnatal ward. She struggled to communicate with hospital staff, and her requests for help were routinely ignored. When she noticed she wasn't producing milk, she repeatedly asked for formula for her baby, but it was nearly a day before anyone responded. Her baby was taken away several times to be checked, but no one explained where he was being taken or what the checks involved.

Doctors who came to assess the baby would ask if she spoke English. When she replied "No," they would simply walk away without trying to communicate further. Lisseth observed that English-speaking mothers received significantly more attention and care. When she was discharged, she received no guidance on how to care for her caesarean wound or what to expect in the postpartum period.

[Remember that the right to be free from discrimination is a piggy-back right. This means it doesn't apply on its own and instead applies when someone's rights are at risk due to discrimination. Whilst Lisseth isn't getting the support she needs to receive necessary medical information due to language barriers; we need to identify which of her human rights are being affected because of potential discrimination.

We can see from the story that Lisseth is unable to have a say over her care and treatment, and the stress caused by this could also have a negative impact on her mental wellbeing. These two factors could mean her Article 8 right to a private life is at risk. We will cover this right later in the guide

As Article 8 could be at risk here, we could say that Lisseth's right to a private life is at risk, and because she is being treated differently because of her language, her right to be free from discrimination could also be at risk. Therefore, the right to be free from discrimination could apply too as it is piggy backing off the right to a private life.]





Article 8 – The right to a private and family life, home and correspondence

The right to a private and family life, home and correspondence covers a lot of different areas of our lives, including the right to make choices, our privacy, and being able to have uncensored communication with others.

Private Life:

The right to a private life is about our ability to make decisions about our own life, and to be able to have lives that are free from unnecessary intrusions from public authorities. The private life part of article 8 includes:

- Our right to have our physical or emotional wellbeing protected.
- Our autonomy – this is our right to make decisions in our own lives, including what we do, where we go, how we dress, and what our needs are. Being able to make decisions in your own life can include receiving necessary information in a language you can understand so you can make these decisions.
- Our ability to communicate with others – this includes having friendships, relationships, and being able to take part in a community.
- Our right to have private information protected. This can include public authorities refraining from collecting information unnecessarily, such as a school asking for your immigration status when this isn't a legal requirement.

Family Life:

The family life part of this right is about our right to have ordinary relationships with our families. This can include our immediate family, but also close friends, partners, foster family, and more.

This part of the right means we can have ongoing contact with our families, and that local authorities should not do anything that could stop this without good reason.

For example, if the Home Office moves someone into asylum accommodation far away from their family. Even if a public authority does this lawfully, it must still find ways to help you maintain contact with your family.

Article 8 is also relevant to the UK's family reunification policy which allows some refugees and migrants to have immediate family members join them in the UK if they were part a family before the person came to the UK. If someone's application for family reunification is refused, the Home Office must consider whether this refusal is a breach of their right to a family life under Article 8. If refusing family reunification does impact their private life and it is not lawful, legitimate, or proportionate, it may be unlawful to refuse reunification.

Home:

This is not a right to housing, it is the right to enjoy the home you are in. This isn't just about a place that you own or rent, it can include a hospital ward, inpatient care, temporary or supported accommodation, asylum accommodation, or anywhere else where you are living.

Home is about having "sufficient and continuous links with a specific place" including houses, flats, fixed and movable homes (e.g. mobile homes and caravans).

Public authorities must respect your home by not causing unnecessary interference or by undertaking unnecessary evictions.

Correspondence:

The right to correspondence is our right to communicate with others without censorship or supervision from public authorities. Correspondence includes text, emails, letters, phone calls, or in-person.

Where this right may be relevant to your community:

- Changes in accommodation – for example, if someone is moved to a different temporary accommodation without having a say over it, or if it is far away from their family or community.
- If you are in social housing, temporary accommodation or asylum accommodation and that accommodation is in a poor condition or you are being mistreated.
- If you are separated from your family, for example in asylum accommodation or due to deportation.
- If you are unable to get the support you need for your mental or physical health.
- If you are struggling to access important public authorities due to your immigration status or language barriers.

Example of using human rights in the community

Sandeep, David and Sally lived in residential accommodation in Newport Pagnell that was funded by Hackney Council (because they were originally from Hackney). Hackney Council were going through budget cuts and felt it would be cheaper to move Sandeep, David and Sally to units in Hackney, even though they had been settled in Newport Pagnell for several years.

Sandeep was supported by his Independent Mental Health Advocate to argue that their relocation might interfere with their right to respect for home and family life as they were living as a community or 'family' together and had a right to be consulted about the re-location. Following this, the council decided not to move them.

Can this right be limited?

The right to a private and family life, home and correspondence is a non-absolute right, this means that it can be limited by public officials so long as it meets each step of this three-stage test:

- 1 Lawful – There must be a law that allows public officials to limit this right.
- 2 Legitimate – There must be a good reason for a public authority or their staff to limit this right, such as the rights of others, public safety, our own safety.
- 3 Proportionate – Public authorities must have thought about other things they could do, but there is no other way to protect the person involved or other people. It must be the least restrictive option.





Case study - Sonia

Sonia and her four-year-old son, who has Down's syndrome, were placed in emergency accommodation by their local authority after leaving an abusive relationship. Despite her son receiving Disability Living Allowance, no medical needs assessment was conducted to ensure the accommodation was suitable. [Sonia and her son's emotional wellbeing are at risk due to previous trauma, and her son's physical wellbeing may be at risk due to the lack of a medical needs assessment.]

At the time, Sonia's son was attending a nursery that met his needs according to his Education, Health and Care Plan (EHCP), as well as receiving Speech and Language Therapy. Sonia also relied heavily on her older daughter for support even though they live apart. Despite these clear needs, the family was placed in temporary accommodation in a different borough, more than 1.5 hours away from the nursery, therapy centre, and their support system. As a result, Sonia's son has been unable to continue accessing the public services that are essential to his development. [Placing Sonia and her son so far away from their support system can impact their ability to maintain friendships and to be part of their community, being so far away from her son's nursery that is meeting his EHCP needs could affect his mental wellbeing.]

Officials have argued that Sonia's son's EHCP could simply be moved to the new local authority, ignoring the difficulties most families face when securing appropriate education for children with special educational needs. [Moving EHCP's to a different local authority does not solve the emotional distress that has been caused to Sonia or her son, as they are still experiencing an impact to their right to a private and home life under Article 8. Article 8 is a non-absolute right, which means public authorities will need to show how this limit is lawful, legitimate, and proportionate.]

***You can find a letter template based on Sonia's story in the annexe of this guide.**



Article 3 – The right to be free from inhuman and degrading treatment or torture

The right to be free from inhuman and degrading treatment or torture protects us from public authorities treating us in a way that causes serious physical and mental harm or humiliation.

This is treatment which:

- makes a person feel very frightened or worried
- causes a person a lot of pain
- makes a person feel worthless or hopeless

Because everybody is different, what is inhuman and degrading treatment for one person might not be inhuman and degrading for another person. It all depends on each person and how treatment affects them. Personal circumstances that should be considered include age, sexuality, ethnicity, sex, mental and physical health, or previous experiences.

Inhuman or degrading treatment can occur in several different ways and situations, for example:

- If you are a victim of forced labour or modern slavery and this is having a very serious impact on you, and a public authority is not taking your reports seriously.
- If you are in asylum accommodation and you are being very seriously mistreated either by staff, or staff are failing to stop someone else from mistreating you.
- Serious harm arising from a lack of care and support or self-neglect
- If you are unable to get healthcare that you need, perhaps due to language barriers, and this has a very serious impact on your mental or physical health.






Can this right be limited?

The right to be free from inhuman and degrading treatment or torture is an absolute right, meaning it can never be lawfully limited by a public authority. Any limit on this right is unlawful and action should be taken quickly to put this to a stop.

What do public authorities need to do?

As this is an absolute right, public authorities must always:

-  Respect – Public authorities must not do anything that could amount to inhuman or degrading treatment.
-  Protect – Public authorities must take action if they see that someone is being subjected to inhuman or degrading treatment.
-  Fulfil – Public authorities must investigate when inhuman or degrading treatment has occurred to stop this from happening again.



Case study - (Adapted from RA (a child by his litigation friend) and BF v SSHD & Office of the Children's Commissioner):

Eight-year-old W was a British citizen living with his mother, J, who was a Ghanaese national granted leave to remain in the UK. J's immigration status meant that she had no recourse to public funds – meaning she was unable to access most benefits including child benefit. This is known as an NRPf condition. [Both J and W have no access to public funds, this could mean that they cannot afford basic amenities such as food and clothes. This could place them at risk of serious mental or physical harm that could amount to inhuman or degrading treatment.]

Although J worked as a carer for disabled people, the NRPf condition meant that she and W lived through periods of destitution, including becoming street homeless at one point.

In some circumstances, the Home Office can remove the NRPF condition but the guidance to caseworkers made it sound like they could only do this if applicants are already suffering inhuman or degrading treatment.

[The destitution that J and W are experiencing could amount to or put them at risk of inhuman or degrading treatment. Public authorities have a legal duty to step in to prevent any risk to the right to be free from inhuman or degrading treatment. A policy or regulation can be disapplied (not followed) by a public authority if applying it would result in someone's human rights being limited unlawfully.]

The court said that the Home Office should remove the condition when someone was about to suffer this treatment, rather than waiting for it to happen. This meant the guidance breached W's article 3 right to be free from inhuman and degrading treatment. The Home Office was ordered to rewrite the guidance and pay £3,000 damages to W. [The right to be free from inhuman and degrading treatment is absolute, policies that allow for people to experience this treatment may be unlawful and need to be challenged.]





Article 4 – The right to be free from slavery or forced labour

The right to be free from slavery and forced labour protects individuals from situations where they are forced to work against their will, are treated as property, or are held in servitude.

Whilst it is rare that public authorities will subject people to slavery or forced labour, they have a legal duty to act if they know that slavery or forced labour is happening, for example if it has been reported to the police or a local council:

Example - Siliadin v. France (2005)

In this case, a young girl from Togo was brought to France and subjected to domestic servitude. She argued that she had been held in servitude and forced labour and that her Article 4 right to be free from slavery and forced labour was at risk. The European Court of Human Rights found that France had violated Article 4, as the French authorities failed to take sufficient measures to prevent the trafficking and exploitation of the victim.

This right means that we have the right to be free from:

Slavery & Servitude

Slavery is where a person is owned or controlled by another person or organisation, typically without their consent.

Servitude is where a person is being forced to work for another person or organisation under oppressive conditions or coercion. For example, they may be paid little to no money, they may have excessive hours with little or no breaks, or they are being mistreated.

Forced Labour




Forced labour is when someone is made to work under threat of punishment or other forms of coercion, without their consent.

Example of using human rights in the community

Patience was brought to the UK as a domestic worker and nanny and forced to work for little or no money. She was subject to physical and mental abuse. Her 'employer' took away her passport. When Patience managed to escape with the help of a neighbour and reported her experiences to the police, they refused to take her allegations seriously and closed the case. Human rights organisation Liberty supported Patience to argue that the police had failed to protect Patience's Article 4 right to be free from slavery or forced labour. The police reopened Patience's case and issued her with an apology, compensation, and a promise to improve training given to officers on cases like hers.

Can this right be limited?

The right to be free from slavery or forced labour is an absolute right, so public authorities cannot lawfully limit it. This means public authorities must always:

-  Respect – Public authorities must refrain from doing anything that could result in slavery or forced labour.
-  Protect – Public authorities must step in and take action to stop slavery and forced labour.
-  Fulfil – If slavery and forced labour has occurred, public authorities have a duty to investigate why this has happened to stop it from happening again.



However, there are some exceptions for this where being forced to work without pay will not be considered slavery or forced labour:

- Work the government requires you to do in times of national emergencies
- Work you have to do as part of a prison or community sentence
- Work as part of your civic duty, such as jury service.



Case study - Luis

Luis, a young man from Peru, arrived in the UK on a tourist visa. Shortly after his arrival, he began working in a restaurant informally. He was paid only £5 per hour, well below the minimum wage, and charged £500 per month for accommodation, which was deducted directly from his wages. Even then, he was not always paid in full. [Whilst Luis has chosen to work, as opposed to being forced to, he is potentially being exploited as he is being paid less than minimum wage and is having his wages further deducted by the restaurant for his accommodation. This could mean that his right to be free from servitude under Article 4 is at risk.]

Luis worked long hours without proper breaks and had no formal contract or protections. Despite the exploitative conditions, he was afraid to report his situation because of his immigration status. [Working under oppressive conditions such as long hours without breaks without formal protections is another indication that the right to be free from slavery and forced labour could be at risk. Public authorities have a duty to protect this right regardless of immigration status.]

The right to be free from slavery and forced labour is an absolute right, meaning public authorities must step in to take action if they are aware that the right to slavery and forced labour is at risk. This is true even if someone has a precarious immigration status.



Article 2 – The right to life

The right to life means that public authorities must not deliberately take any action that could take away our lives. They also have a legal duty to take reasonable steps to prevent death if they know, or ought to know about a real and immediate risk to our lives.

For a public authority to be considered to have known or ought to have known about a real or immediate risk to life, they must have either formally taken responsibility for a particular individual or group's welfare, or that a real and immediate risk has been reported to them.

Can the right to life be limited?

The right to life is an absolute right, meaning that any limit on this right is unlawful. Therefore, when it comes to the right to life, public authorities must always:



Respect – Public authorities must refrain from doing anything that could end our lives.



Protect – Public authorities need to take action if they know or ought to know about a real and immediate risk to our lives.



Fulfil – Public authorities need to investigate if our lives have been put at risk or ended to prevent this from happening again.

Where this right may be relevant to your work:

- Children being ineligible for free school meals due to being undocumented or having no recourse to public funds where this leads to malnutrition or starvation.
- Deterioration of health because of not receiving proper care that leads to a real and immediate risk to life.
- No support for basic needs, i.e. access to food or welfare that you are entitled to.

- Local authorities refusing to provide provision of Section 17 support for undocumented families under The Children Act 1989.
- If you express thoughts of suicide to a public authority and they don't take steps to protect you
- Serious mistreatment in Asylum accommodation that poses a risk to your life.
- Not receiving life saving treatment due to immigration status
- If the not police do act in response to reports of threats to kill or seriously harm
- Poor maternity care leading to the loss of mother and or child's life.



Case study - Adapted from IRMO factsheet on the right to healthcare)

During the COVID-19 Pandemic, it was found that a large proportion of the Latin American community in London did not receive the COVID-19 vaccination. The COVID-19 Pandemic posed a real risk to life for people around the world, particularly those with underlying health issues and the elderly. The COVID-19 vaccination was a way to help protect people from more serious symptoms of COVID-19, including potential deaths.

[The right to life means that public authorities have a legal duty to act if they know, or ought to know that there is a real and immediate risk to someone's life. During the COVID-19 pandemic, it was clear that the government and other public bodies had knowledge that COVID-19 posed a risk to life, so it is possible there is responsibility under the right to life.]

Many in the Latin American Community in London said that the reason they did not receive the COVID-19 vaccine, despite being entitled to it, was that the information was in English, a language they could not understand. This was also a barrier to getting a GP in the first place, with some reporting that their request for Spanish translations was refused by some GP clinics. This meant that many Latin Americans were unable to get the vaccine or the healthcare they needed.

[If you are unable to receive essential medical treatment that could prevent the end of your life due to a lack of accessibility, it is possible that your right to life is at risk. It is also possible that your right to be free from discrimination is at risk if language barriers are not addressed through appropriate translations. If public authorities cannot provide an objectively justifiable reason for not providing translated medical information, it may be discrimination.]

The right to life is absolute, public authorities cannot lawfully do anything that could limit our right to life. If they know or ought to know that there is a real or immediate risk to our lives if we do not receive medical treatment, they must take reasonable steps to address this risk.





Article 2, Protocol 1 - The right to education

The right to education puts a legal duty on public authorities to offer effective education to children. This applies to all children in the UK, regardless of citizenship, nationality, or immigration status.

It means that all children and young people up to the age of 18 in the UK should be able to access education provision that already exists.

This right does not mean that we have the right to learn whatever we want, wherever we want to. Parents also cannot stop schools from teaching certain lessons; however, they are allowed to remove their children from those classes. The right to be free from education includes:

- Children in the UK having access to an effective education in existing schools/institutions, regardless of their immigration status, language, or nationality.
- Religious and philosophical beliefs and principles of parents should be considered.
- Having a curriculum set by an education authority, such as the national curriculum that is objective and factual.
- Any studies that a student has successfully completed must be officially recognised.

Example - Belgian Linguistic Case (1968)

In this case, 800 French students in Belgium argued that the lack of education available in the French language meant that they did not have equal access to education than Belgian speaking children. The European Court of Human Rights said that this was a breach of their right to education and their right to be free from discrimination, stating that discrimination in access to education based on language was a breach of the right to education.

Where this right may be relevant in your work:

- If a child faces barriers in accessing education due to being repeatedly moved around the UK to different asylum accommodations.
- If a child faces barriers in accessing education due to a lack of available education taught in their language.
- If a school asks for proof of a child's immigration status as a requirement to enrol in the school.



“Many young asylum seekers also struggle to access and remain in education. Although they have a legal right to education, language barriers, unfamiliar systems, and lack of tailored support make it difficult for them to navigate enrolment and stay engaged.” - IRMO Member

Can this right be limited?

The right to education is a non-absolute right, this means that it can be lawfully limited, however, the right to education works differently to other non-absolute rights as public authorities do not consider three-stage test of lawful, legitimate and proportionate. Instead, for this right to be lawfully limited, public authorities should consider:

- 1 Is this limitation foreseeable? – This could be because it is written in law or policy, or because there is logical, political or social context for the limitation.
- 2 Is there a legitimate aim for limiting this right? – Unlike the other non-absolute rights, the right to education doesn't include a list of permissible legitimate aims. Whether a limitation of this right meets a legitimate aim is decided by the courts on a case-by-case basis.
- 3 Is it objectively justifiable – There needs to be a reasonable relationship between the limitation of the right and the legitimate aim.





Case study - Max

Max and his parents arrived in the UK seeking asylum after fleeing gang violence in Central America. Not long after their arrival, Max and his mother were separated from his father, with each being placed in different asylum accommodations. They were later relocated to different parts of the country. The separation had a deep emotional impact on Max.

Max's mother attempted to enrol him in school but encountered repeated delays. Important correspondence from the local authority and school was not passed on by the asylum accommodation provider, leaving the family unaware of key updates. As a result, Max spent nearly five months out of education. [Under article 9 of the HRA, everyone has the right to an education, irrespective of their immigration status. If a public authority fails to provide important information required in order to enrol in education, that could be a barrier to receiving education, potentially putting this right at risk.]

During this time, he became increasingly isolated, missing out not only on learning but also on vital social interaction and routine. The prolonged time out of school added further stress to an already difficult transition and set back his ability to begin settling into life in the UK. [The right to education is about the state not denying education to a person, therefore, delays to accessing education caused by a public authority that are not foreseeable, legitimate, or objectively justifiable could place this right at risk. The resulting isolation could also impact his Article 8 right to mental wellbeing, and his ability to be part of a community.]



Raising Human Rights Issues

As a caseworker or volunteer at IRMO, you can use human rights as a powerful tool to support members of your community when they are interacting with public bodies. If someone visits you at IRMO and you are worried about their human rights, you can support them by:

1. Identifying the issue

Note down who is involved in the situation, what the issue or decision is, where and when it happened, what the impact is on the individual, has a public official made the decision or are they involved in the situation?

2. Identify if any human rights are at risk and if so which ones

If you think there are human rights at risk in the situation, note down which ones are at risk (there may be more than one!), and whether they are absolute or non-absolute. If they are absolute, or if someone is at risk of serious harm, you may need to take urgent action such as contacting emergency authorities on 999 or 111.

3. Raise the issue formally with a public official

Once you have identified the issues and any relevant human rights, you can contact the relevant public authorities to ask for a meeting to discuss the action or decision and the impact it is having on the individual.

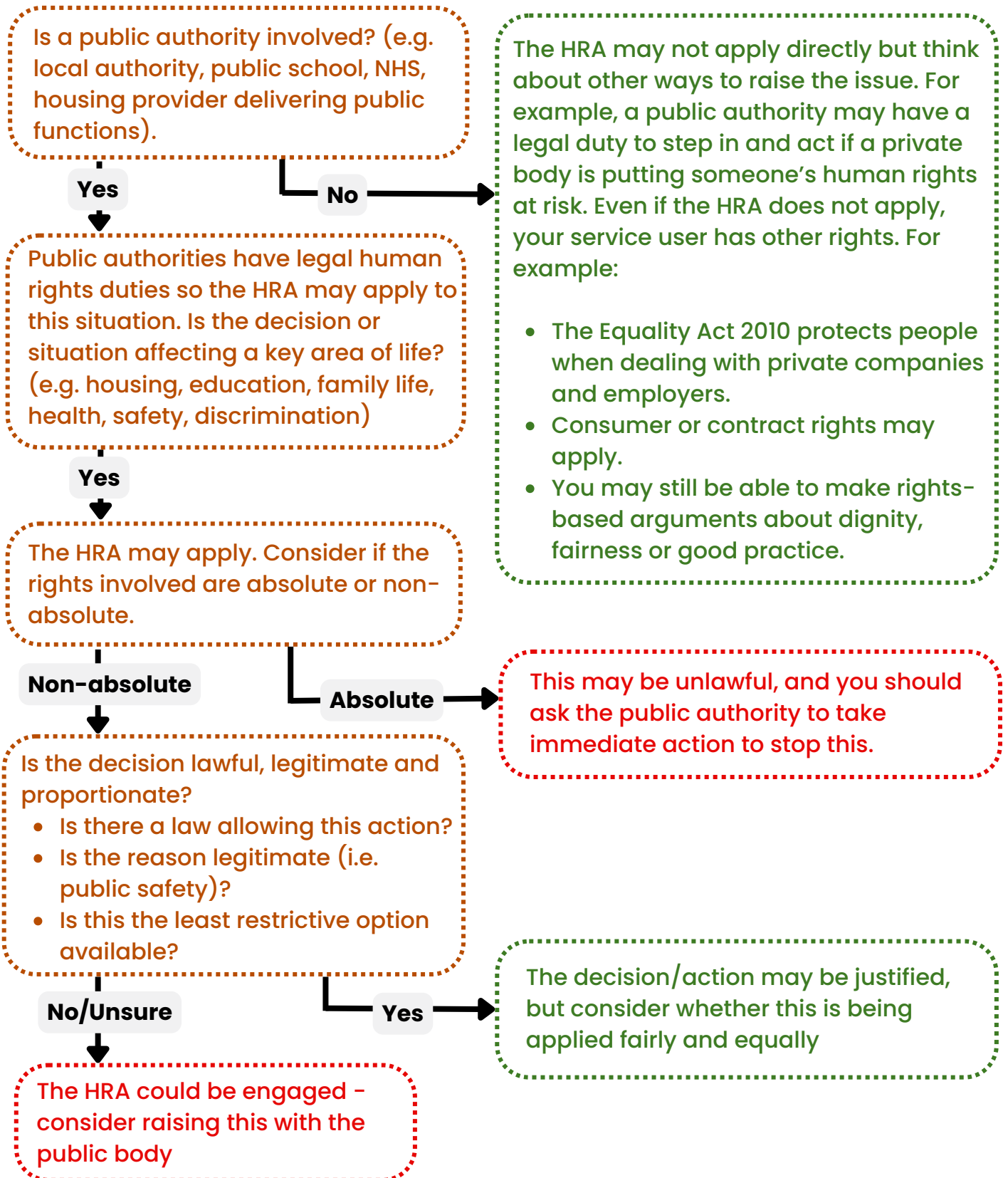
4. Step-up your action

If step 3 does not work, you can write a formal letter to the relevant public authority, expressing your concern about the human rights issues and the impact it is having on the individual. If you need to take further action, you could:

- Following the internal complaints procedure
- Contact a relevant Ombudsman
- Contact a relevant regulator, such as the Office of the Immigration Services Commissioner, Social Work England, the Regulator of Social Housing, or Ofsted.
- Seek legal advice

This guide has case studies based on stories provided by IRMO. These case studies will include notes on identifying the issue and identifying the human rights at stake. You can then use the letter templates at the end of this guide to support you to raise issues formally with a public official and contact information if you need to step up your action.

How can I determine if I can use a human rights-based approach in a case?



Letter templates

Dear Mrs Public authority staff,

I am contacting you on behalf of Sonia in my role as her Caseworker. I would like to request a meeting to discuss the recent decision by [Public Authority Team] to place Sonia and her son in temporary accommodation that is detrimental to her son's medical needs. [If you are writing on someone else's behalf explain who you are and your relationship to the person concerned.]

As you are aware, Sonia and her son were recently referred to your team and placed in emergency temporary accommodation after being recognised as at risk of homelessness and in priority need, following their departure from an abusive relationship. Sonia has a four-year-old son, who has Down's syndrome and receives Disability Living Allowance. He was attending a nursery that met his needs according to his Education, Health and Care Plan (EHCP), as well as receiving Speech and Language Therapy. [Explain the background and what has happened.]

Sonia and her son were referred to your team for assistance to access emergency accommodation. However, no medical needs assessment was carried out before they were placed, and Sonia was placed in temporary accommodation in a different borough, more than 1.5 hours away from the nursery, therapy centre, and their support system. As a result, the child has been unable to continue accessing the public services that are essential to his development and wellbeing. Sonia is extremely distressed by this decision and the impact that this is having on her child. As a public body you have a legal duty under the Human Rights Act to respect and protect Sonia's human rights and those of her child. [Explain that they have a duty under the Human Rights Act. Explain which rights may be at risk.]

The decision to place Sonia and her child in accommodation that is in a different borough to Sonia's son's essential needs, and without a medical needs assessment, interferes with her right to respect for family life and her son's right to respect for their private and family life and right to education. The right to a private and family life is protected under Article 8 of the Human Rights Act, and the right to education is protected under Article 2, Protocol 1 of the Human Rights Act. Any limits of these rights must be lawful, legitimate and proportionate. [Explain why you think this right is at risk and the impact on the person concerned.]

Sonia would like to request a meeting with you to review the decision to place her and her son in unsuitable accommodation. We would like to discuss the reason for your decision and to explore if there are more proportionate ways to secure a more appropriate accommodation for Sonia's child that would have less of an impact on the whole family. We would like to review other options for supporting Sonia and her child to realise their right to family life such as exploring housing options and working with both Sonia and her child to find out what measures can be put in place to support them, allowing Sonia and her son to live with dignity, stability, and access to the authorities they urgently need. [Explain what you would like to be done to resolve this issue.]

I would be grateful if you could please respond to my letter and suggest a time for a meeting within the next week as this issue is causing great distress for the whole family. I am sure that we can resolve this issue amicably, working with Sonia and her child to protect their rights. [Set out a suitable time frame for next steps.]

Yours sincerely,

IRMO Caseworker



Letter templates

Dear Mrs Public Authority Staff,

I am contacting you in my role Yara's caseworker at IRMO. I am writing to raise concerns about the lack of available Spanish translations or interpreters at Yara's GP appointments and the impact that this is having on their mental and physical wellbeing. **[If you are writing on someone else's behalf explain who you are and your relationship to the person concerned.]**

As you are aware, Yara is a registered patient at your GP service. Yara has only recently arrived in the UK and does not speak English as a first language. Whilst Yara has been able to book GP appointments at your service, she has been unable to fully understand them as an interpreter has only been provided in one of her last four appointments. At one appointment, a doctor asked Yara's seven-year-old son, who also does not speak English, to translate. Because of the lack of available support, Yara has difficulty understanding doctors' questions, explanations, or instructions. She described how, even when doctors are aware she does not speak English, they continue to speak to her in English throughout the appointment. She often leaves without understanding anything that was said and feels as though there was no point in attending at all.

[Explain the background and what has happened.]

As you are an NHS GP providing healthcare on behalf of a local authority, you have a legal duty under the Human Rights Act to respect and protect Yara's human rights. I am concerned that the lack of translation or interpretation services offered to Yara are putting her wellbeing and autonomy (protected by the Article 8 of the Human Rights Act) at risk. I am also concerned that Yara's right to be free from discrimination is at risk as she is less likely than others accessing NHS GP services to be able to make informed decisions about her medical care as she does not have access to medical information in a suitable format.

The lack of translations leads to Yara not understanding important information about their physical health and wellbeing. For example, when prescribed medication, Yara has had to search online to find out what it is for and how to take it. These experiences have not only made her feel disempowered but also placed her and her family at risk by leaving her without clear medical guidance. **[Explain that they have a duty under the Human Rights Act. Explain which rights may be at risk.]**

The Human Rights Act means that any limit of a non-absolute right such as the right to wellbeing under private and family life, must be lawful, legitimate and proportionate. I am concerned that the decision to not provide translations or interpreters is not legitimate (there is not a good reason for limiting this right for example public safety or protecting the rights of other people, including children or staff) nor is it proportionate. **[Explain why you think this right is at risk and the impact on the person concerned.]**

Given the impact this situation is having on Yara and her rights, it is not proportionate for her to not receive any support to understand her medical concerns. I therefore request a meeting with you to discuss changes that could be made to respect Yara's rights and to provide her with important medical information in a language she understands. **[Explain what you would like to be done to resolve this issue.]**

I would be grateful if you could please respond to my letter and suggest a time for a meeting within the next week. I am sure that we can resolve this issue amicably, working with Yara to protect her rights. **[Set out a suitable time frame for next steps.]**

Yours sincerely,

IRMO Caseworker



Important links

BIHR

BIHR have a lot of information about the Human Rights Act on our website. In particular, you might find the following of particular interest:

- [Information about all of the rights in the Human Rights Act](#)
- [BIHR Human Rights Info Hub](#)
- [BIHR Easy Read Human Rights Info Hub](#)
- [BIHR Know Your Human Rights online tool for women survivors of domestic abuse](#)
- [BIHR Know Your Human Rights online self advocacy tool for people with mental health or mental capacity issues and those that support them.](#)
- [BIHR have a range of resources that you can download from our website.](#)

Other Resources:

Citizens Advice Bureau: Citizens Advice provides advice in person, over the phone and via email and web chat.

Women's Aid: Women's Aid provide information and support about domestic abuse.

The Parliamentary and Health Service Ombudsman: The Parliamentary and Health Service Ombudsman looks into complaints that have not been resolved by the NHS in England and UK government departments and other UK public organisations. Tel: 0345 015 4033 Mon - Thurs, 8.30am to 5pm, Fri, 8.30am to 12pm

The Local Government and Social Care Ombudsman: The Local Government and Social Care Ombudsman looks into complaints about councils all adult social care providers (including care homes and home care agencies) and some other organisations providing local public authorities. Tel: 0300 061 0614 Mon - Fri 10am to 4pm

Care Quality Commission (CQC): The Care Quality Commission is an independent organisation which makes sure health and social care authorities in England are providing a good service and are meeting national standard. Tel: 03000 616161 enquiries@cqc.org.uk

Law Centres Network: Law Centres provide free and independent legal advice to people who cannot afford a lawyer. The network does not provide legal advice itself, but can provide contact details for your nearest centre. Tel: 020 3637 1330