

The British Institute
of Human Rights 

ECONOMIC & SOCIAL RIGHTS AND THE HUMAN RIGHTS ACT

BIHR'S POSITION





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Introduction

Economic and social rights (ESCR), such as housing, health, social care, welfare and education, are often discussed as if they sit apart from the Human Rights Act (HRA). This can create the impression that meaningful progress on ESCR depends primarily on new legal protections or future incorporation of rights not currently contained in domestic law. BIHR's position is that this risks overlooking one of the most significant human rights frameworks already available in the UK.

Across housing, health, social care, welfare and education, the Human Rights Act already provides a framework for securing dignity, accountability and everyday justice. It places duties on those exercising public power and creates enforceable rights that can help people challenge unfair decisions, influence services and hold decision-makers to account. The Human Rights Act is not the whole answer to economic and social rights protection, but it is already a vital part of it. Its impact lies not only in the rights it protects, but in its

potential to shape how decisions are made, how services are delivered, and how the rights and duties we already have are understood, implemented and used in practice.

It is our position that human rights are interconnected; that the HRA already plays a significant role in protecting and advancing many ESCR issues; and that one of the greatest challenges is not simply the absence of legal protection, but the gap between rights that exist and rights that are realised in people's everyday lives.

What rights do we mean?

Human rights are often split into two boxes: civil and political rights (life, liberty, fair trial, free expression) on one side, and economic, social and cultural rights (housing, health, education, social security) on the other. That split can be a useful shorthand, but it doesn't reflect how rights actually work in people's lives, or how they entered international law in the first place. The Universal Declaration of Human Rights treats all rights as universal, indivisible and interdependent.

BIHR does not see these rights as existing in separate silos. Decisions about housing, care, health, education and welfare regularly engage HRA rights including family life, dignity, liberty, equality and access to justice. The more useful question is not whether an issue is "civil and political" or "economic and social", but how human rights can be used in practice to secure dignity, fairness, accountability and everyday justice.



RIGHT TO LIFE (ARTICLE 2)

Protects people in situations where failures by public bodies could put life at serious risk. This can be relevant to access to essential healthcare, safe housing, social care and other services where inadequate provision may create life-threatening risks.



RIGHT TO LIBERTY & SECURITY (ARTICLE 5)

Protects people against arbitrary detention & requires safeguards when liberty is restricted. This is particularly relevant to people receiving mental health treatment and with mental capacity issues.



FREEDOM OF THOUGHT & RELIGION (ARTICLE 9)

Protects people's ability to hold and practise their beliefs. This can be relevant to healthcare, social care, education and other public services where decisions or policies affect people's ability to live in accordance with their beliefs.



FREEDOM FROM DISCRIMINATION (ARTICLE 14)

These human rights must be secured without unlawful discrimination. Discrimination can affect people's access to housing, health, education, care, welfare and a range of public services impacting economic and social rights.



FREEDOM FROM INHUMAN TREATMENT (ARTICLE 3)

Protects people from serious physical or mental suffering or indignity. This can be vital where people are left without adequate care, subjected to degrading living conditions, or denied support necessary to ensure their dignity.



RIGHT TO A FAIR TRIAL (ARTICLE 6)

Protects people's right to a fair and independent process when various decisions are being made. Can support access to justice challenging decisions affecting housing, benefits, education, healthcare or social care.



FREEDOM OF EXPRESSION (ARTICLE 10)

Protects people's ability to express and receive ideas and information. This is vital when people need information about public services, challenge decisions affecting their rights, or speak out about conditions in public services.



PROTECTION OF POSSESSIONS (ART 1 PROT 1)

Protects the peaceful enjoyment of possessions. This can be relevant to benefits and social security, pensions, compensation and other forms of financial entitlement, as well as decisions affecting people's homes and possessions.



FREEDOM FROM SLAVERY & FORCED LABOUR (ARTICLE 4)

Protects people from exploitation and forced labour. This can be relevant to people experiencing severe economic insecurity or exploitation, including safeguarding people at risk of trafficking and forced labour.



RIGHT TO PRIVATE & FAMILY LIFE (ARTICLE 8)

Protects people's wellbeing, autonomy, relationships, community, independence, family life and home which can all be impacted by decisions about housing, social care, healthcare, education and state support.



FREEDOM OF ASSEMBLY & ASSOCIATION (ARTICLE 11)

Protects people's ability to come together with others, including peaceful protest. Supports people experiencing poverty, inadequate housing, discrimination or poor public services to organise, participate and advocate for change.



RIGHT TO EDUCATION (ART 2 PROT 1)

Protects the right to access education. It is particularly relevant to equal access to education, including for disabled children and young people and others who may face barriers to accessing education.



No watertight division between human rights

We see this every day in BIHR's practical and policy work: a failure to provide adequate social care can amount to an unlawful deprivation of liberty; decisions about housing can engage the right to family life; refusal of treatment or support can raise issues about the right to life. These rights don't operate in separate rooms, they operate together, in people's everyday experience of public services.

This isn't just BIHR's view; it reflects how human rights law itself has developed. In **Airey v Ireland**, the European Court of Human Rights rejected a strict separation between civil and political rights and economic and social rights, holding there is "no watertight division" between the two. Mrs Airey could not afford legal representation to pursue a judicial separation, an economic barrier, and the Court found this breached both her right to a fair trial (Article 6) and her right to private and family life (Article 8): the same rights protected in our HRA.

Housing, social care, health, welfare and education are rarely just questions about service delivery. They are usually the means through which dignity, autonomy, liberty, family life, equality and access to justice are experienced, rights given legal force by the HRA. The HRA is not simply a framework for high-profile court cases or traditional civil liberties issues; it is a practical tool for securing human rights in everyday life, and one that is too often overlooked and under-used.

Understanding how these rights operate in practice is important because many of the duties and protections relevant to ESCR already exist within domestic law, even when they are not always recognised as part of ESCR discussions.

Why the Human Rights Act really matters for ESCR

The UK has ratified ICESCR, the main international treaty on rights such as health, housing, social security, education and work. But ICESCR does not form part of domestic UK law. Individuals cannot bring an ICESCR claim in a UK court, and the UK has not ratified the Optional Protocol that would allow complaints to the UN Committee.

This is precisely why the HRA matters so much for ESCR in the UK. Although its rights are often labelled "civil and political", in practice they already provide many of the protections people rely on in housing, health, social care, welfare and education.

This means that, whatever future discussions may take place about incorporation, duties relevant to many ESCR issues already exist within domestic law today.

In practice, the HRA functions as the UK's enforceable domestic framework for many ESCR protections. It creates direct legal duties on government and public bodies, provides routes to challenge unfair decisions, and offers a substantial body of domestic and European case law showing how these rights apply. This is not theoretical: in **Asiye Genc v Turkey**, the European Court of Human Rights found a breach of the right to life (Article 2) after a premature baby died because public authorities failed to organise neonatal care effectively.

The question is not whether the HRA contains a standalone right to housing, health or social security. The question is how the HRA's existing rights and duties can be used to improve decisions, strengthen accountability and secure better outcomes across these areas. Many of the issues people experience in housing, health, social care, welfare and education already engage rights protected by the HRA.

Just as importantly, the Act places duties on those exercising public power. These duties mean human rights are not only something people can rely on when seeking accountability; they are also a framework for everyday decision-making. Public bodies must act compatibly with HRA rights (section 6), and legislation must, so far as possible, be interpreted consistently with those rights (section 3). Together, these duties are a framework for embedding human rights in everyday public decision-making, creating opportunities for change long before any complaint or court case arises, by helping decision-makers balance competing priorities, identify risks earlier, and design policies and services that reflect people's dignity and autonomy.

The Human Rights Act shows up in economic and social rights issues:

- **The right to life, where failures in healthcare, housing or social care put life at risk.**
- **Freedom from inhuman or degrading treatment, protecting dignity where people are left without adequate care.**
- **The right to liberty and security, particularly in health and social care.**
- **The right to a fair hearing, supporting access to justice when people challenge decisions about housing, welfare or social care.**
- **The right to private and family life, one of the most significant HRA protections for ESCR, covering housing, care, independent living and family relationships.**
- **Freedom from discrimination, helping secure equal access to services.**
- **Protection of property, relevant to benefits and financial entitlements.**
- **The right to education, focused on access to an effective education**

What this looks like in practice



Changing Lives

Change often starts with one person recognising that what is happening to them engages their rights, and being able to advocate for themselves.

In one BIHR story, Yolande, a mother facing removal of her children, after repeated moves to escape domestic violence were read by social services as instability rather than protection, kept her family together once a frontline worker trained by BIHR used the right to family life (Article 8) to reframe those moves as acts of survival, not neglect.



Changing Communities

Individual concerns can become collective action, using human rights to build community power.

Through BIHR's partnership with IRMO, a migrant community organisation, concerns about unlawful immigration-status questions in school admissions were connected up to children's right to education in the Human Rights Act. This helped drive campaigning to change admissions policy and wider advocacy on migrant children's access to education.



Changing Public Bodies

The Human Rights Act is not only a tool for challenge after harm; it gives public bodies a framework for rights-respecting decisions from the outset.

BIHR's work with an NHS mental health trust in Yorkshire embedded human rights into everyday decision-making and, from there, into reviews of Mental Capacity Act, safeguarding and domestic abuse policy. This means frontline healthcare decisions and the policies guiding are being driven by human rights.



Changing Regulators & Accountability

Regulators and ombudsmen can harness their Human Rights Act duties to influence thousands of decisions beyond any single case.

BIHR's partnership with the Housing Ombudsman Service has embedded human rights into guidance and sector-wide practice for how housing complaints are investigated. Our programme with the Care Quality Commission built capacity to integrate the Human Rights Act into the regulation of health and social care that so many of us rely on daily.



Changing National Law and Policy

Individual stories, community campaigns, frontline experience using the Human Rights Act for change can shape the laws, policies, and systems that affect millions of people.

BIHR's evidence during scrutiny of the Mental Health Act, combining lived-experience testimony with legal analysis, enabled us to secure a Government-backed amendment closing a gap in HRA duties owed by independent providers of publicly arranged mental health and care services.

These levels are interconnected: individual experience reveals where systems fall short; communities organise; regulators strengthen accountability; public bodies improve decisions; and evidence from all of this can inform law and policy reform.

This is why BIHR focuses on implementation, and on what we call the implementation gap. For BIHR, this is not a gap between people's experiences and the law that should protect them, but a gap between rights that exist and rights that are realised in practice. Too often the problem is not an absence of legal protection, but a failure to translate rights and duties into everyday decisions, systems and services.

Human rights protections are strongest when people know about them, public bodies understand and act on their duties, accountability systems reinforce them, and organisations embed them into everyday decision-making.

This is also why BIHR's 2026-2031 strategy focuses on five areas where these dynamics play out most: education, health, welfare, social care and housing. In each, specific HRA rights are regularly engaged, for example Article 8 in housing allocations and evictions, Articles 3 and 8 in social care, Article 2 in health, Article 1 of Protocol 1 in welfare and benefits, and Articles 2 (Protocol 1) and 14 in education. None of this means the HRA fully delivers ESCR protection. It does not guarantee particular levels of housing, healthcare or spending. BIHR's position is narrower and more practical: the HRA is the UK's principal enforceable human rights framework through which many ESCR issues can already be challenged, examined and improved.

BIHR's Strategic Focus 2026 – 2031

Over the past 25 years, the Human Rights Act has transformed countless lives. Yet we are living through increasingly uncertain and divided times. Many people feel disconnected from the decisions that affect them, trust in institutions is under strain, and public services face significant pressures. The challenges people encounter in housing, health, social care, welfare and education are deeply interconnected, with the impacts often felt most acutely by those facing disadvantage and exclusion. In this context, implementation matters: the promise of human rights is realised through the decisions, systems and services that shape people's daily lives.

This understanding of implementation is reflected in BIHR's 2026–2031 strategy: Securing Everyday Justice. BIHR focuses on five areas where people most often encounter public power in their everyday lives and where economic and social rights concerns regularly intersect with Human Rights Act duties:



EDUCATION

Enabling people to learn in safe, equitable environments.



HEALTH

Enabling people to receive care and treatment that respects dignity, autonomy, and equality.



WELFARE

Enabling people to live with security and fairness.



SOCIAL CARE

Enabling people to flourish and live well.



HOUSING

Enabling people to live in sound, accessible places to call home.

BIHR's Strategic Focus 2026 – 2031

These are not simply areas of public policy. They are areas in which decisions made by public bodies can have profound impacts on people's dignity, autonomy, family life, participation, equality and access to justice. They are also areas where human rights protections already exist within domestic law through the Human Rights Act. For example, the right to respect for private and family life, home and correspondence (Article 8) is frequently engaged in housing and independent living; freedom from inhuman or degrading treatment (Article 3) and the right to respect for private and family life (Article 8) in social care; the right to life (Article 2) in health; the protection of property (Article 1, Protocol 1) in welfare and benefits; and the right to education (Article 2, Protocol 1) alongside freedom from discrimination (Article 14) in education.

BIHR's focus on these areas reflects our belief – backed up by almost three decades of on the ground experience – that human rights become meaningful through implementation. By supporting people and communities to know and use their rights, helping public bodies fulfil their Human Rights Act duties, and strengthening accountability, BIHR works to close the gap between rights protected in law and rights experienced in practice. At a time of increasing social and political division, when trust in institutions is under strain and many people feel disconnected from decisions that affect their lives, we believe the Human Rights Act provides an important framework for participation, accountability and fairness.



By 2031, we want to see stronger communities confidently using the Human Rights Act to secure change, public bodies routinely embedding human rights in decision-making and service delivery, and law and policy increasingly informed by people's lived experiences. We want to see a Human Rights Act that is better understood, better implemented and more deeply embedded across society, helping ensure dignity, fairness, accountability and respect are experienced in practice, not just protected in principle. We want to see everyday justice.



Championing our Human Rights Act for ESCR

The Human Rights Act will not be the complete answer to all economic and social rights issues; but it remains the strongest domestic framework we currently have for protecting dignity, accountability, participation and fairness in people's everyday lives. While there is an important conversation about strengthening economic and social rights protections, these debates should not distract from the rights, duties and opportunities that exist through the Human Rights Act.

It is the UK's most practical and enforceable framework for ESCR.

The UK has international obligations under ICESCR, but the HRA is what makes many of those protections meaningful and actionable at home, through rights such as life, liberty, private and family life, property, education and non-discrimination.

It strengthens advocacy on the issues people care about most.

Whether the issue is school admissions, social care, mental health or housing conditions, the HRA gives people, communities and organisations a recognised legal framework to raise concerns and seek accountability, translating lived experience into a language decision-makers are required to engage with.

Its greatest strength is prevention, not litigation.

Much of the HRA's impact happens before a case ever reaches court. By placing duties on public bodies, it encourages decision-makers to consider rights when policies are developed and decisions made, reducing the need for complaints and legal challenges later.

It supports better law, policy and public services.

The HRA creates a framework that government and public authorities should already be considering when developing proposals, an important route for influencing national reform and ensuring people's real experiences of health, housing, welfare and care shape the systems that govern them.

Protecting ESCR means securing the HRA.

Decisions about housing engage family life; decisions about care engage liberty and dignity; decisions about welfare engage equality. Defending the HRA is one of the most important ways of defending ESCR in the UK. There are legitimate debates about incorporating further ESCR protections into domestic law, but we should be careful not to frame arguments in ways that suggest the HRA is irrelevant to these issues. The deeper challenge is usually not whether rights exist on paper, but whether they are implemented in practice.

Debates about strengthening ESCR often focus on whether new rights should be incorporated. That debate matters. But it can sometimes overlook how much ESCR work can already be advanced through the Human Rights Act.

Organisations and campaigners will make their own decisions about whether to advocate for further legal reform. For BIHR, the challenge is also ensuring that the framework we already have is understood, used and implemented: equipping people to know their rights, supporting public bodies to act on their duties, and embedding human rights into the design of services, systems and policy. This is how ESCR become real in people's everyday lives.

BIHR's distinctive contribution



BIHR works at the point where law, communities and the exercise of public power meet, combining HRA expertise with the expertise of people who have

experienced public services and used human rights to change their own lives and others'. This lets us work across the whole cycle of change: supporting individuals to use their rights, communities to challenge unfair systems, regulators to strengthen accountability, public authorities to embed human rights in decision-making, and policymakers to develop laws that better reflect people's rights and experiences.

For BIHR, economic and social rights are not a separate category of work sitting alongside the Human Rights Act. They are among the clearest examples of where implementation matters most. Housing, health, education, welfare and social care are where people encounter public power every day, and where decisions about dignity, fairness, participation and accountability have the most direct impact on their lives.

Protecting and implementing the Human Rights Act is not separate from securing economic and social rights in the UK. It is one of the most important, practical and under-used tools we already have for doing so.

BIHR's Call to Action



- 1 Protect and use the Human Rights Act.**
With the Human Rights Act we have practical legal tools for dignity, fairness, accountability and better decision-making across the issues people care most about.
- 2 Close the implementation gap.**
People need to understand their human rights. Public authorities need to understand and apply their human rights duties. Human rights need to be embedded in everyday decisions, law and policy making.
- 3 Put implementation alongside calls for incorporation or reform**
There is real value in discussions about new duties and stronger protections for economic, social and cultural rights in the UK. But implementation should sit alongside those conversations, not behind them.

Whatever legal framework exists, human rights must be meaningful which means they must be understood, legally enforceable and used in practice to achieve the change they were intended to deliver in everyday life. If we want economic and social rights to make a real difference across the UK, implementation must be given the same attention as new legislation; there is great opportunity in the rights we have yet to fully realise.

Get in touch



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