What are your human rights?

Are they being broken?

What does this mean for you?

What can you do about it?

Co-produced with

The British Institute of Human Rights

About this guide

This guide, made in collaboration with the British Institute of Human Rights and Families in Trauma and Recovery, will provide families with a good understanding of their human rights, and how they can use them to make sure their rights are respected.

Families, including children, often have trouble accessing the care and support they need to work through trauma in public healthcare, and on top of that, have trouble with the courts and police in getting the help they need. Using the language of human rights, families can challenge decisions made about their care that are not respecting their rights.

This resource has been created to provide simple, accessible information and tools that families can use to advocate for their human rights.

This resource can be used by adults, parents, and young people alike.

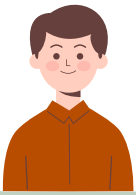
"People often struggle with their mental health, they reach out - there's no help available! People struggle with the cost of living, accessing medical care for themselves and their families, getting care packages for loved ones. And often carers are too busy to attend to our loved ones because they are too busy. Even when they get into a care home, their needs are not always addressed when they desperately need it. Lots of "little" things (which aren't so little!) that we need and deserve from the systems around us. We can't survive on our own, we have a right not to have to survive on our own."

- Families in Trauma and Recovery member

"Collaborating with Families in Trauma and Recovery has been an incredibly meaningful experience. Not only has it been great to be able to create a resource that is geared towards helping families to have their rights respected when seeking care for trauma and recovery, it has also been eye opening to learn more about the organisation and the issues they are addressing."

- The British Institute of Human Rights

This guide is for information purposes only. It is not intended, and not be used as, legal advice or guidance. The law referred to in this guide may have changed since it was published.



Are your rights being respected?

Your rights aren't 'nice to have', they are the law!

- Are you being allowed to have a say over your care and support?
- Are public officials offering you services that you are entitled to?
- Are your concerns and preferences being considered in a meaningful way?
- Are you being included in meetings about you or your loved ones?

Take action

- Identify which rights are at risk.
- If your rights are being restricted, do you think this is the least restrictive action available?
- What changes do you want the public body to make?

- If you find yourself with an urgent need, raise the issue immediately.
- Don't be afraid to challenge decisions, actions or policies that are not human rights respecting.
- Don’t be afraid to use human rights language - public officials have a duty respect, protect and fufil your human rights.

What are human rights?

Human rights are the basic freedoms and protections that we all have in the UK. Under the UK Human Rights Act 1998, public bodies have a legal duty to make sure that your rights are protected.

Scan →

Human rights mean that we must be:

Treated with dignity

Treated fairly

Treated with respect

Listened to and given a say over our lives

What are my human rights?

There are 16 human rights in the Human Rights Act:

You can find Easy Read resources on all the human rights in the Human Rights Act here.

Who has human rights?

Human rights are universal, this means that they belong to everyone. We are all born with human rights, and whilst they can be limited in certain circumstances, they can never be taken away.

If you are in the UK, you have human rights, no matter who you are, how old you are, where you've come from, or what you have done.

They are not gifts or rewards from the government, they are protected by law.

When can our rights be restricted?

The rights in the Human Rights Act can be divided into absolute and non-absolute rights.

Absolute rights

Absolute rights cannot be restricted, limited, or interfered with for any reason. There is never any good reason or justification for interfering with absolute rights. If a decision or situation is affecting someone's absolute rights, this is unlawful, and action needs to be taken immediately to stop this from continuing.

Examples of absolute rights

Article 2
The right to life

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

Article 6
The right to a fair trial

Non-absolute rights

Non-absolute rights can be limited. Most of the rights in the Human Rights Act are non-absolute. However, for them to be limited, they must pass a three-stage test. The decision must be:

Lawful: There must be a law which allows public officials to take that action, for example the Mental Health (Care and Treatment) (Scotland) Act.

Legitimate: There must be a good reason for limiting someone's rights such as the protection of a person or others from harm.

Proportionate: The decision taken must be the least restrictive option available. Public officials must have thought about other things they can do but there is no other way to protect the person concerned or other people.

Examples of non-absolute rights

Article 5
The right to liberty

Article 8
The right to respect for private and family life, home and correspondence

Article 10
The right to freedom of expression

Article 1, Protocol 1
The right to peaceful enjoyment of possessions

What duties do public bodies have?

Public bodies have a legal duty to protect, respect, and fulfil our human rights in everything that they do, and this is the same for both absolute and non-absolute rights.

The duty to respect
This duty means that public officials must not do anything to breach our human rights.

The duty to protect
This means public bodies must step in to protect you from harm if you are in a situation where your rights are being disrespected. This is often called safeguarding.

The duty to fulfil
This means that if something has gone wrong and your rights have been disrespected, public bodies need to investigate why this happened, and try to stop it from happening again.

Did you know...?
Not only do public bodies need to respect, protect, and fulfil your human rights, but they also need to consider your human rights in any decision they are making, and all other laws should be interpreted in a way that respects your human rights as much as possible. If a decision made under another law affects your human rights, you can ask the courts to look at whether this decision was right.

If a decision made under another law affects your human rights, you can ask the officials to remake the decision to consider your human rights. If they fail to do this, you can ask the courts to look at whether this decision was right.

The duty on public officials means you can...

- **Speak up** because the law says you have human rights which should be supported.
- **Talk to staff** or your services about whether they are meeting their legal duty to support your human rights.
- **Work with staff and services to find better solutions** because the law says your human rights should be supported. This can help resolve things without having to go to court or use a lawyer.

Exploring the rights in the Human Rights Act 1998

This section of the guide will explore a few of the rights in the Human Rights Act 1998 in more detail, using real life scenarios to show how human rights can be used by ordinary people every day. The rights covered will be:

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

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

Article 14 – The right to be free from discrimination

These rights will be explored as, whilst all rights are relevant to everyone, these rights are particularly relevant to families trying to access and navigate public services when experiencing trauma and recovery.

Article 8

The right to private and family life, home, and correspondence

This right is non-absolute, meaning it can be limited or restricted when it is lawful, legitimate, and proportionate to do so.

Scan →

Article 8 will be relevant to your life in lots of ways. An important part of this right is making sure your choices are respected. What this right covers is explained in the next 4 pages.

Private Life

- Wellbeing – this is your physical and mental health.
- Community – this is your right to take part in your community.
- Relationships – this is about your right to form and maintain friendships.

- Autonomy - this means having a say in decisions that affect you.

- Confidentiality – this means no one should share your private information without your permission.

Family Life

- Developing ordinary relationships – this means having a normal family life.

- Ongoing contact with family – this means being able to see or speak to your family and loved ones and being able to see or speak to your family and loved ones, and being supported to do so if this isn't easy'.

- Receiving support for your family to work together and have your needs met through services – this means being able to involve your family in conversations around how you are cared for.

- Can include friends and partners – this means that family isn't limited to your immediate relatives, it can also include your friends and loved ones.

Home

- The right to home does not mean you have a right to be provided with a place to live.

- It's about your right to enjoy the home you are living in, free from interruption and intrusion without your permission – this means the place where you are living and the way you enjoy it should be respected as much as possible.

- Includes temporary accommodation – this means your home isn't just a place you own, rent, or live permanently, it includes anywhere where you are staying for an extended period.

Correspondence

- Right to uncensored communication with others – this means you can speak to people either in person or through texts and letters without it being watched or censored by others.

- Through a variety of mediums including letters and modern communication – this means you have a right to communicate with people through things like texts, emails, and social media as well as in person.

When might this right be relevant to me?

- If a public official is not listening to your needs regarding your care, treatment, or recovery.
- If you or your family are not getting the care or support you need to address trauma.
- If support and services offered to you don't take into account your experience of trauma.

- If you are not being supported to take part in meetings or decisions about you or your loved ones, for example receiving relevant reports on the day of a meeting without having time to read and understand them.

- If a public official discloses confidential information about your past experiences or trauma without your consent.

- If there is a big intrusion into your private information or data. For example, if you report an abusive message to the police and the police tell you they will download all of the information in your phone.

in real life →

Paul's story

Paul was a young person who had suffered traumatic experiences in his home borough over 14 years. He was involved in a lengthy legal battle to be rehoused somewhere he felt safe, away from the trauma of his past. Paul attended a youth empowerment project run by BIHR and a local supported housing organisation.

The project was about the Human Rights Act and explored with young people what this meant for them and their lives. This gave him the confidence to speak up and apply his rights to the difficult situation he was facing.

Paul decided to write a letter to the court. He explained how he felt his rights had been interfered with and the impact this had had on his mental and physical well-being, which he had learned was protected by Article 8 of the Human Rights Act.

Following this, Paul was provided with safe housing outside the borough. He said the most important outcome for him was not only his rehousing, but the feeling that he had a right to a voice and to be heard.

- Paul doesn't have less rights than anyone else just because he is a young person.
- Paul was able to use the language of human rights to have his voice heard and challenge how he was being treated.

- Paul also has the right to have his voice heard over his care and treatment.

- In this case, Paul was able to use the language of rights to have his voice heard, and to be understood considering his trauma and to be treated in a way that respects his rights.

- Whilst Article 8 does not include the right to housing, it does include the right to the peaceful enjoyment of your home. This could also include being free from triggers of prior trauma.

in real life →

Families in Trauma and Recovery example

"When I was trying to access services on my sons behalf, due to him being in active addiction e.g. health services, GPs even financial things I was faced with constantly being turned away unable to advocate on his behalf when he was so ill physically and mentally, he wasn't able to function in any way he didn't have the capacity to make decisions for himself at all, but he was over 18 years of age. This meant his and my human rights were not respected...

I was also completely unaware that I would actually be classed as a carer for him until I attended the first Scottish annual conference for families of loved ones with addictions, it was only then I discovered this and that in itself meant I had more rights which would have been a game changer had I known these facts previously but nobody tells you these things."

- Article 8 protects your ability to have a say over your care and treatment, this includes being provided with important relevant information so that you can make informed decisions.

- Article 8 also protects your right to be able to include your family and loved ones in discussions about your care and treatment.

- When it has been decided that someone lacks capacity to make a specific decision, this does not mean that the person loses their right to have a say over their care and treatment. Their thoughts, feelings and preferences should still be considered.

in real life →

Families in Trauma and Recovery example

"Although GPs, counsellors and other mental health professionals offer assistance, it can be difficult for family members to trust this, as they often feel that it is only an "academic" exercise, given that the "professionals" have had no lived experience in these areas."

- Public officials have a duty to share important information with you clearly, making sure that you understand it. Otherwise, you are unable to have a meaningful say over your care and treatment.

- Public officials should always listen to what you have to say about your care and treatment.

- Even if they haven't had the same life experiences as you, they need to take your own experience into account when making decisions about your care.

- Public officials should support you to make choices about your own life. This might include recognising that you are finding it difficult to speak to them about your experience and finding ways to help you with this, such as making you aware of information online, or sign-posting you to a peer support service, advocacy or counselling.

in real life →

Families in Trauma and Recovery example

"Whilst I was a student at University a few years ago, I faced some serious challenges, my mum had to get my benefits sorted out for me because I was completely nonfunctional, could barely say two words on the phone, if I didn't have her advocating for me I would have given up and not got the benefits I needed."

- Your right to private life protects your physical and mental wellbeing and your right to make decisions about your life.

- If public officials are aware that your physical or mental wellbeing is at risk because you are not accessing essential benefits, they need to take steps to look after your rights.

- This might include making sure you have information about the benefits you are entitled to and how to claim or signposting you and your loved ones to get support with claiming benefits.

Did you know...?
You can raise human rights issues in the UK courts. However, you do not need a lawyer to use the Human Rights Act. If you are concerned that your rights, or the rights of someone you know, are being affected you can raise this directly with a public authority. You could do this by asking to have a meeting with the public official involved or their senior, or alternatively you could make a complaint explaining why you are concerned about your rights.

Article 3

The right not to be tortured or treated in an inhuman or degrading way

Article 3 protects against being treated in a way that causes serious mental or physical harm or humiliation, including deliberate (abuse) and unintentional (neglect) harm.

Scan →

Examples of inhuman or degrading treatment include treatment that:

makes you very frightened or worried

causes you a lot of pain

makes you feel worthless or hopeless

Exacerbates your trauma or re-traumatises you

This is about the level of harm and suffering the person experiences.

This means that treatment and care should be person centred, considering that individual's needs and past experiences. For example, if a woman who has experienced sexual assault is treated by a male doctor, this could cause serious distress and could affect their right to be free from inhuman or degrading treatment.

When might this right be relevant to me?

Everybody is different and what is inhuman and degrading will differ from person to person, but examples might include:

- Lack of care or medication leading to extreme or long periods of pain or suffering.
- Lack of care and support to live a dignified life.
- Treatment or service provision that does not take into account your experience of trauma and therefore causes you severe distress or harm.
- The use of excessive force to restrain you.

- Safeguarding issues, including harm from others and self.
- If the police are not conducting a proper inquiry into behaviour that puts a person at risk of severe harm.

Remember! →

Just because something doesn't seem inhuman or degrading to someone else doesn't mean it isn't inhuman or degrading to you. People have different experiences so something that may not seriously impact one person could be deeply distressing to someone else. Public services must take into account your individual needs and experiences when considering this right.

in real life →

Beth's story

Beth and her daughter were homeless after she left her abusive partner. The council's housing team initially refused to rehouse Beth and her daughter, and she started to think that her only option was to return to living with her ex-partner.

However, Beth's social worker explained to the housing team that not providing safe accommodation could breach both Beth's and her daughter's right to be free from inhuman and degrading treatment due to the risk of further abuse from Beth's ex-partner if they returned home. The housing team looked at their decision again and decided to rehouse them.

- The right to be free from inhuman and degrading treatment is an absolute right, that means it is never lawful to limit this right in any way.

- If a public official sees that Beth and her daughters right to be free from inhuman treatment is being limited, they have a duty to step in and stop this from happening.

- Beth's social worker was able to identify that Beth living with her ex-partner would be inhuman and degrading as it would trigger past trauma and put Beth's safety at serious risk.

- The social worker was able to challenge the housing team's decision using rights language. This meant that the housing team made a decision that respected Beth and her daughter's rights, taking into account the traumatic situation they had been in.

in real life →

Families in Trauma and Recovery example

"We also have another story from a family who has had their elderly mother being put into a temporary care home, until her needs are assessed adequately. But during this time, she has had to face being left in soiled clothes for hours, not being offered adequate food. The elderly lady has pressed her buzzer to get urgent help and it has taken over 50 minutes to get this for even a basic level of care."

This story is relevant to the right to be free from inhuman or degrading treatment because...

→ Your rights should always be respected even when you are in a temporary situation awaiting a further decision about your care.

- Being left for hours in your own waste is a very degrading and distressing situation to be in. Public officials should be taking steps to prevent this from happening.
- If it has already happened, public officials should step in immediately to make the situation better.
- Being left in your own waste for an extended period of time would likely be considered a breach of your right to inhuman and degrading treatment. This is unlawful.

in real life →

Families in Trauma and Recovery example

"Due to a large number of locum psychiatrists, my file (and several others, as far as I know) was misplaced and nobody noticed. I was so unwell that it took me over a year to speak up and be able to get appointments again."

This story is relevant to the right to be free from inhuman or degrading treatment and the right to family and private life because...

→ The right to private and family life includes confidentiality, having our personal information kept private. Having a file go missing which contains important information about your care and treatment might put this right at risk. When things went wrong, this should have been investigated to prevent something like this from happening again.

→ The impact of this event could have led to the individual experiencing serious mental or physical harm, putting their right to be free from inhuman and degrading treatment at risk. Human rights are person-focused and should consider the past trauma of an individual, and how a certain action or decision may affect them.

Article 14

The right to be free from discrimination

Scan →

This right protects you from being discriminated against when you are using one of the other rights in the Human Rights Act. This means that, no matter who we are, we should all enjoy the same human rights and have equal access to them.

This right means that when you are using the Human Rights Act, you should not be discriminated against. Discrimination includes:

1. Being treated worse than other people in the same situation because of your race, age, sex, being a victim of violence, disability or health status, or having received benefits.

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.

The right to be free from discrimination can be limited where treating someone differently can be reasonably and objectively justified. Reasonably and objectively justified means that a public official would be able to show that the differential treatment was for a very good reason. This could be for the health and safety of an individual or others, or to protect the rights of others.

Did you know...?
Not all differences in treatment will be discrimination, for example, a child with disabilities might need to be treated differently to make sure that they can access the same services as everyone else.

The right to be free from discrimination is a 'piggy-back' right, this means it cannot exist by itself. It must 'piggy-back' onto another right in the Human Rights Act. For example, if your right to family or private life is not being respected because you are a child, this could be discrimination, so Article 14 would be able to 'piggy-back' onto the right to family and private life.

The Human Rights Act says that people should be able to enjoy their human rights without discrimination on any ground such as sex, race, ethnicity, language, religion, or other status.

This means that the Human Rights Act can apply to a wide range of circumstances and can also include experiencing discrimination for combined reasons, such as being a young, black, disabled person in recovery.

Remember! →

If you feel as though a public body is not respecting your human rights, you have a legal right to challenge their decision, and they have a legal duty to consider your rights and needs in a meaningful way. This is true for both adults and children.

Speaking Up for Your Rights

Identify the issue

- What is the issue or decision?
- What happened, when and where?
- Who is affected and what is the impact on them?
- Has a public official made a decision or are they involved in the situation?

Identify which human rights are at risk

- There may be more than one right.
- Is it an absolute or non-absolute right? Can the right be limited lawfully?
- If the right is absolute, action must be taken as this right can never be lawfully limited.
- If it is non-absolute, think about whether the limitation is lawful, for a good reason, and if it is the least restrictive option available.

Is it urgent?

- If yes, take immediate action such as contacting emergency services by calling 999.
- If it is not urgent, continue to the next step.

Raise the issue with the public official

It can be helpful to raise the issue by speaking to the public official who has made the decision, such as a social worker, to let them know they are not considering your rights.

Write a letter

If you are still unable to resolve the issue after speaking to a public official, you can write a follow-up letter either to the same official or to someone higher up, like a manager. You can say that you might have to take more serious action.

Take more serious action

- Make a complaint to the organisation.
- Contact the Ombudsman.
- Contact the relevant regulator for the public service, for example for care services in Scotland this is the Care Inspectorate.
- See if someone can help you to get legal advice.

Resources

- We have a hub of resources freely available on our website. You can find out more about public bodies' duties here. (www.bihr.org.uk/get-informed/where-do-organisations-duties-apply)

- We worked with our lived experience experts to create a resource for children and young people in CAMHS inpatient settings. You can access that here. (www.bihr.org.uk/our-work/our-programmes/transforming-organisations/camhs)

- For more information on the rights that everyone has, you can access know your human rights here. (https://knowyourhumanrights.co.uk/home/)

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