

EHRC Draft Strategic Plan 2025 – 2028 Consultation: Response from the British Institute of Human Rights

October 2024

In summary:

- 1) We support the EHRC's current focus on "upholding rights in health and social care" and encourage the EHRC to include this as a priority area in the new 2025 – 2028 plan as part of its work to support organisations to meet their duties under human rights law. In particular, we encourage the EHRC to support and enable specialist, accurate and relevant Human Rights Act training focused on practical implementation for health and social care staff to complement its written guidance and resources.
- 2) We support the EHRC's current aim to ensure children have "equal access to the support and resources they need" and encourage the EHRC to include this in the new 2025 – 2028 plan as part of its work to improve systems and processes to promote human rights. In particular, we encourage the EHRC to support and enable Human Rights Act training and resources for school and local authority staff.
- 3) We support the EHRC's current aim to "ensure...pupils learn about rights" and encourage the EHRC to include this in the new 2025 – 2028 plan as part of its work to help individuals understand their legally protected rights under the Human Rights Act. In particular, we encourage the EHRC to advocate for human rights education in schools and educational settings.
- 4) We encourage the EHRC to champion an accurate understanding of the Human Rights Act and the universality of human rights as part of its work to inform the decisions and actions of governments, parliaments and others by providing data and evidence on human rights. In particular, we encourage the EHRC to promote better understanding of Section 3 of the Human Rights Act and the role of the European Convention on Human Rights and its Court in the UK amongst parliamentarians and decision-makers.

In detail:

The British Institute of Human Rights (BIHR) is a charity working across the UK to enable positive change through the practical use of the Human Rights Act (HRA). We work with people to provide the information they need to benefit from their rights; with community groups to advocate for social justice using human rights standards; and with staff across local and national public bodies and services to support them to make rights-respecting decisions. This enables us to call for the development of national law and policy which truly understands people's experiences of their human rights.

As part of our work, we provide human rights workshops and programmes to public bodies and services to upskill staff on human rights law and provide practical tools to support them to make rights-respecting decisions and embed a culture of respect for human rights across organisations. Each year we work with several thousand staff across a range of public authorities in the UK, including the NHS, various local authorities, regulators, ombudsmen and more. For example, from autumn 2022 to winter 2023, we worked with Leeds & York Partnership Foundation Trust to run capacity-building workshops for 300 staff members and an in-depth learning programme for 38 senior staff members. Afterwards, 100% of attendees said they felt more confident about using the HRA in their work, with one saying that human rights knowledge "will only better your own practice to help, improve your service and, fundamentally, improve the quality of life for the patients in your care." This is reflective of outcomes from the broad range of our programmes in health and social care.

We were therefore disappointed to see that "upholding rights in health and social care" is no longer included in the EHRC's draft strategic plan. We recognise that some issues relevant to health and social care may fall within the three proposed new priority areas, but we believe that the potential risks to people's human rights in this area are so serious that health and social care must be a specific priority in itself. We know from working with staff in public services and with individuals accessing (or trying to access) these services that there is currently a lack of awareness and understanding of human rights legal obligations in this area that directly impacts on the support people receive. Examples of human rights issues that we often see arise in this area include use of restraint; restrictive visitation policies; and blanket policies.

Use of restraint & Maria Clara's story

Maria Clara was detained in a mental health hospital. She had self-injured and had a major wound on her neck. It had been treated and bandaged, but she had

attempted to re-open the wound. The staff at the hospital had agreed that Maria Clara needed to be restrained due to the high risk of the wound re-opening. The hospital used restraints to prevent her from re-opening the wound but two male staff applied these restraints. Maria Clara found it very distressing to be restrained by men. Maria Clara told her advocate that she was experiencing flashbacks which she believed were due to the two male staff carrying out the restraints. The advocate spoke to the hospital staff and raised this as a human rights issue under [Article 3 of the HRA \(the right not to be treated in an inhuman or degrading way\)](#). As a result, the hospital agreed to only use female members of staff to restrain Maria Clara, to allow her wound to heal.

Visitation & Mersey Care Trust's story

BIHR has a long-standing relationship supporting Mersey Care NHS Trust to put human rights at the heart of its mental health and learning disability services. The Trust recognised that it was difficult for children to visit their relatives in secure mental health settings. Children were finding the ward environment unwelcoming, chaotic and frightening, and this was affecting their [Article 8 rights under the HRA \(the right to family life and the right to private life, which includes mental wellbeing\)](#). The Trust, supported by a local youth organisation, worked directly with the young people to address this issue and ensure human rights were being respected. This resulted in children being involved in designing specialised visiting areas for families with children.

Blanket policies & Laura's story

Laura is a consultant who works with older people and has worked with BIHR in the past. She was visiting a nursing home in London and saw several residents were effectively trapped in tilt-back chairs that had been introduced because they stopped people from trying to get up, falling and hurting themselves. The chairs meant residents who were previously very independent had to wait for staff to get them out of the chairs to go to the toilet or get something to eat. It also meant that residents weren't walking around very often and so started to find walking very difficult. Laura raised her concerns that this constituted [inhuman or degrading treatment under Article 3 of the HRA](#), and the policy was changed so residents who could walk were no longer placed in tilt-back chairs.

We also note that the draft strategy discusses the need for effective regulation of human rights in emerging technologies. This is an area that is very much applicable in health and social care, particularly in relation to use of vision-based monitoring systems in inpatient mental health settings.

We know from our work with organisations across the UK that sustained human rights learning programmes offer much-needed opportunities for long-term change and the embedding of a culture of respect for human rights. This is particularly important at a time when resources are stretched and health and social care services are under pressure; it is vital that human rights are an established and non-negotiable part of public service delivery. Not only does this ensure that legal obligations are met, but it can also improve outcomes for both people accessing services and for staff.

CAMHS Practice Leads' story

BIHR ran a Practice Leads Programme made up of 10 half-day sessions with senior staff in Children & Young People's Mental Health Services across England. Sessions began by solidifying human rights knowledge and applying human rights law to real examples before focusing on specific issues chosen by attendees and ending with action planning for the future. Sessions also encouraged networking and relationship-building between attendees for ongoing peer support. After the programme, 100% of participants said they felt more confident in embedding human rights knowledge and change in their team, with one person saying, "I feel empowered to be an ambassador for young people's human rights in my workplace and I can't thank the BIHR team enough for giving me the confidence to do so." Changes that participants made following the programme included working with children's community services around decision-making; challenging restrictions; and making a poster on human rights and seclusion.

We support the EHRC's current focus on "upholding rights in health and social care" and encourage the EHRC to include this as a priority area in the new 2025 – 2028 plan as part of its work to support organisations to meet their duties under human rights law. In particular, we encourage the EHRC to support and enable specialist, accurate and relevant HRA training focused on practical implementation for health and social care staff to complement its written guidance and resources.

We were also disappointed to see that a specific focus on children and young people's rights is no longer included in the EHRC's draft strategic plan. BIHR has [worked directly with young people to support them to understand their rights](#) and with parents, carers and supporters to help them advocate for rights-respecting practices in areas such as [mental health services](#) and [special educational needs and disabilities](#). Our work in this area has shown us a lack of understanding and implementation of legally protected rights in the HRA and legal duties on local authorities and schools to uphold these. This can lead to rights-risking decisions, whereas human rights knowledge and advocacy can lead to better outcomes for all involved.

Sarah's story:

A Local Authority had a policy of providing school transport for children with special educational needs living more than three miles from their school. Sarah, a young girl with learning disabilities, lived 2.8 miles from the specialist school she attended. Despite being unable to travel on her own, she was advised by the Local Authority that she should take two public buses to and from school each day. An independent advocate who had attended a BIHR training session supported Sarah's mum to challenge the decision using human rights language. Sarah's mum approached the headteacher and explained that the transport decision was a disproportionate interference with her daughter's right to respect for private life, given the failure to consider her individual circumstances. The headteacher took the issue to the Local Authority, and the decision was reversed. Sarah was provided with transport to and from school from then on, making a real difference to her life.

We support the EHRC's current aim to ensure children have "equal access to the support and resources they need" and encourage the EHRC to include this in the new 2025 – 2028 plan as part of its work to improve systems and processes to promote human rights. In particular, we encourage the EHRC to support and enable HRA training and resources for school and local authority staff.

Ensuring young people learn about their human rights at an early stage can also support a wider culture of respect for human rights across the UK.

"By explaining not only what human rights are but also how to protect them, human rights become an active and useful tool to fight for dignity and justice." – Aurelia Drayak, Young Lived Experience Activist, ATD UK's Youth Voices

In 2021, the Independent Human Rights Act Review reported a “[repeatedly and cogently emphasised...need for greater public or civil education concerning the Human Rights Act](#)”, recommending “[that serious consideration is given by Government to developing an effective programme of civic and constitutional education in schools, universities and adult education](#)”. Similarly, in this year’s [concluding observations on the UK’s implementation of the International Covenant on Civil and Political Rights](#), the United Nations encouraged the UK Government to raise awareness of human rights among the general public.

We support the EHRC’s current aim to “ensure...pupils learn about rights” and encourage the EHRC to include this in the new 2025 – 2028 plan as part of its work to help individuals understand their legally protected rights under the HRA. In particular, we encourage the EHRC to advocate for human rights education in schools and educational settings.

Finally, we would raise concerns that despite the former UK Government’s proposed [Bill of Rights](#) being abandoned, elements of it have been mirrored in subsequent, more targeted laws. Notably, there have been a series of increasingly human rights–restricting laws affecting asylum and immigration in the UK which still remain on the books. As the EHRC has acknowledged, “[the Safety of Rwanda \[Act\] undermines the universality of human rights by disapplying core provisions of the HRA](#)” and the Illegal Migration Act similarly risks “[placing the UK in breach of its international legal obligations to protect human rights](#)”.

Both these laws disapply [Section 3 of the HRA](#), which says public body workers must apply other UK laws in a way which respects human rights, as far as it is possible to do so. Much political rhetoric has focused on Section 3 in the courts, which suggests a lack of awareness of the way Section 3 is used in everyday practice by other public body workers, from Home Office officials to social workers to NHS staff, to navigate a complex maze of other laws.

“In short, the Human Rights Act has given us a legal, objective, decision making framework, provided by no other law or policy, to ensure rights are protected and people and staff are safe.” – Sarah, Public Body Worker

A provision disapplying Section 3 has also been passed in the [Victims & Prisoners Act](#), preventing human rights from being considered in release and licence decisions.

Universality, the fact that rights belong to all of us, is what makes human rights so important; "the whole point about human rights is that they apply to all human beings: and that even and perhaps particularly those whose causes are unpopular, like prisoners and immigrants, need protection against the abuse of state power" (Dinah Rose, KC). Laws that chip away at the HRA in areas where it is believed it will be perceived as more acceptable are concerning both because of their immediate impact on the people targeted and because of the precedent it sets that our human rights legal protections are at the whim of the government of the day.

Similarly, the Safety of Rwanda Act empowers Ministers to ignore interim measures from the European Court of Human Rights (ECtHR). Interim measures are very rare but are an important part of the functioning of, and the UK's participation in, the ECtHR and have been confirmed by the Court to be binding. However, some political rhetoric in this area is again at odds with people's real-life experiences of human rights and fails to recognise the role of the ECtHR in safeguarding human rights for everyone in the UK.

Removing these important domestic and international human rights protections from people in certain situations undermines the universality of human rights and so weakens human rights protections for us all. It is vital that decision-makers understand the reality of the way the European Convention on Human Rights (ECHR) and of Section 3 of the HRA function in the UK in order to support a culture of respect for human rights across the UK.

We encourage the EHRC to champion an accurate understanding of the Human Rights Act and the universality of human rights in the new 2025-28 plan as part of its work to inform the decisions and actions of governments, parliaments and others by providing data and evidence on human rights. In particular, we encourage the EHRC to promote better understanding of Section 3 of the HRA and the role of the ECHR and its Court in the UK amongst parliamentarians and decision-makers.