

## Example letter to address a human rights issue

This is based on an example written by and advisor from Sheffield SENDIASS as part of a BIHR training session in early 2024. It draws its structure directly from the template available on BIHR's website.

Dear [person's name],

I am an independent advocate supporting [young person A] to challenge a decision relating to the school named in section I of their EHCP. We have addressed this concern via the Children and Families Act but we believe there is also a human rights issue.

I am concerned that you have made this decision based solely on resources, without taking into account the impact this will have on [young person A].

This decision could be a **breach of their rights under Article 8** of the Human Rights Act (the right to private and family life, home and correspondence). Your choice of school will have a significant detrimental effect on [young person A]'s wellbeing due to the length of travel to and from the school every day. Their attendance at your choice of school would prevent them keeping their current relationships and forming new ones within the community they currently live. This would also impact their ability to access the after-school clubs within the community, which play a big part in their life. **[Young person A]'s right to autonomy under Article 8 has also been put at risk, as at no point were they given an opportunity to explain why they wished to attend [School X].**

**The 3 stage test for restriction of non-absolute rights (lawful, legitimate, proportionate) may not have been properly considered in this decision.** Whilst the decision is lawful under section 39 of the Children and Families Act, it is not legitimate or proportionate because the naming of your school due to the additional cost of [school X] is not actually less expensive due to the increased cost of travel and the impact of moving [young person A] from a school they have attended for many years would be huge. **The Human Rights Act protects [young person A]'s rights to wellbeing and autonomy, and in this case it may not be lawful to restrict those rights.**

Given that [school X] is able to meet [young person A]'s needs and is where they attended for their primary education, we ask that it is named in section I of the EHCP. On the face of it, this is an increased use of resources, but due to the travel

costs of the local authority preferred placement, the expense is the same.

Refusing to place [young person A] at [school X] could therefore be an illegitimate and disproportionate restriction of their rights under Article 8 of the Human Rights Act.

Regards

[Name]

On behalf of [Young person A]