



Human Rights and Advocacy

A Short Guide

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BIHR resources are used by all my advocates – booklets come out in meetings and strategically placed to remind other professionals of clients’ human rights.

Mandy, an advocate from north-east England

Human Rights and Advocacy: a short guide

This short guide builds on BIHR's work with health and well-being advocates, including recent sessions in north-east England kindly supported by the Evan Cornish Foundation.

This guide will help you understand how human rights are relevant to the issues you or your clients experience when accessing health, care and other services.

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Putting Human Rights
at the Heart of Health and Care

Our Human Rights and Health Hub www.bihar.org.uk/health contains more detailed guides, tools and resources which can be downloaded or requested in hardcopy.

Share how you are using our resources to create change by emailing info@bihr.org.uk and tag us in your social media posts on Twitter (@BIHRhumanrights) or on Facebook (British Institute of Human Rights).

About us

The British Institute of Human Rights (BIHR) is an independent charity working to bring human rights to life here at home. We empower people to:

- **know** what human rights are (and often what they are not)
- **use them in practice** achieve positive change in everyday life without resorting to the courts, and
- make sure those in power **respect and progress** our human rights laws and systems.

How the Human Rights Act works for advocates

Human rights belong to everyone. The **Human Rights Act** is the UK law which sets out **16 rights** (called Articles) that apply to everyone. All the rights are on the back of this booklet.

For your work, this law works in 3 main ways:

1 Legal duty

Whenever public officials interact with people they have a legal duty to respect and protect human rights.

Public officials include staff working in the NHS, publicly funded/arranged care, council/local authority (e.g. social workers or housing officers), police officers, etc.

The duty on officials has 3 parts:

Respect: not to breach human rights

Protect: take action to safeguard people's rights, including when the risk is from a non-official like a family member

Fulfil: to have the right processes and procedures in place, particularly to investigate when things have gone wrong.

2 Foundation law

All UK laws should be **compatible with the human rights** in the Human Rights Act. This means other laws, like the Care Act and Mental Capacity Act should be applied in ways to protect human rights.

3 Local Justice

Any person can ask **UK courts and tribunals** to look at whether their human rights have been risked or breached by a public authority.

In your advocacy

If you think a public official is risking or breaching your human rights you can remind them of their legal duty not to do this in your discussions.

Protecting and respecting human rights is the law, not an optional extra.



Five really relevant human rights and how they work

All 16 human rights in the Human Rights Act are equally important. It is important to know that some human rights can be restricted in certain circumstances. Other human rights are absolute which means they can never be restricted, no matter the reason. Human rights which are often relevant to advocacy in health, well-being and care include:



Absolute

The right to be free from inhuman or degrading treatment can never be restricted. This includes protection from serious harm, abuse or neglect from other people or yourself (e.g. safeguarding)



Absolute

The right to life should be considered absolute in health and well-being settings*



Non-Absolute

The right to liberty can be restricted in very limited situations, usually when sending someone to prison or detaining them to receive mental health treatment or for administrative purposes (e.g. to resolve some immigration issues)



Non-Absolute

The right to private and family life, home and correspondence is really relevant! It covers lots of everyday situations, e.g. having control over our lives, being involved in decisions about us, who we have relationships with, physical and mental well-being and much more. Public officials can only restrict this if they follow a 3-stage test:

- Restriction must be **lawful**, and
- For a **legitimate aim** (usually to protect the person or community), and
- **PROPORTIONATE**. Proportionality is really important, it means public officials should consider all the options and pick the least restrictive option (whilst still meeting the aim).

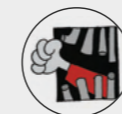


The right to be free from discrimination means everyone should be able to enjoy their human rights without discrimination. This is in addition to other protections such as the Equality Act. This right cannot be used alone; it must be used with another human right. For example, being deprived of your liberty unlawfully because you have a learning disability would be about the right to liberty and non-discrimination.

* Life may be taken by police/security officials when it is absolutely necessary to protect the lives of the public.

Examples of how human rights advocacy helps people

Human rights give advocates a practical framework for managing difficult situations. Talking about legally protected human rights can help steer discussions away from people's own "moral compass" and help clarify the issues and find ways to resolve them. Examples from our work include:



Jenny

Jenny wanted to leave a mental health hospital to visit the coffee shop but staff said she couldn't, as it wouldn't be in her best interests. Actually Jenny was not formally detained and could leave at any time. Refusing to let Jenny leave meant informally detaining her without any safeguards. Advocates raised Jenny's **right to liberty** with staff and arranged for Jenny to leave to get coffee. This reassured staff about her safety. Respecting Jenny's right to liberty helped her gain control over her life.



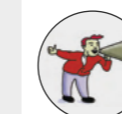
Bryn

Bryn was 60 and had complex learning disabilities which made communication difficult. Staff at his supported housing were concerned Bryn had heart problems. At a meeting about Bryn's care the doctor refused to order a heart scan because Bryn had a learning disability and "no quality of life". Bryn's advocate raised the **right to life (and non-discrimination)** and the doctor said a scan would be ordered if anyone in the room was in that situation. It was then agreed that Bryn should get the scan.



Robert

A local authority was providing support for disabled people to participate in social activities. Robert asked if a support worker could accompany him to a gay pub. His request was denied even though other (heterosexual) people had similar support. Robert's advocate discussed his **right to respect for private life and to non-discrimination**. Robert was then given the same support as others to participate in the community.

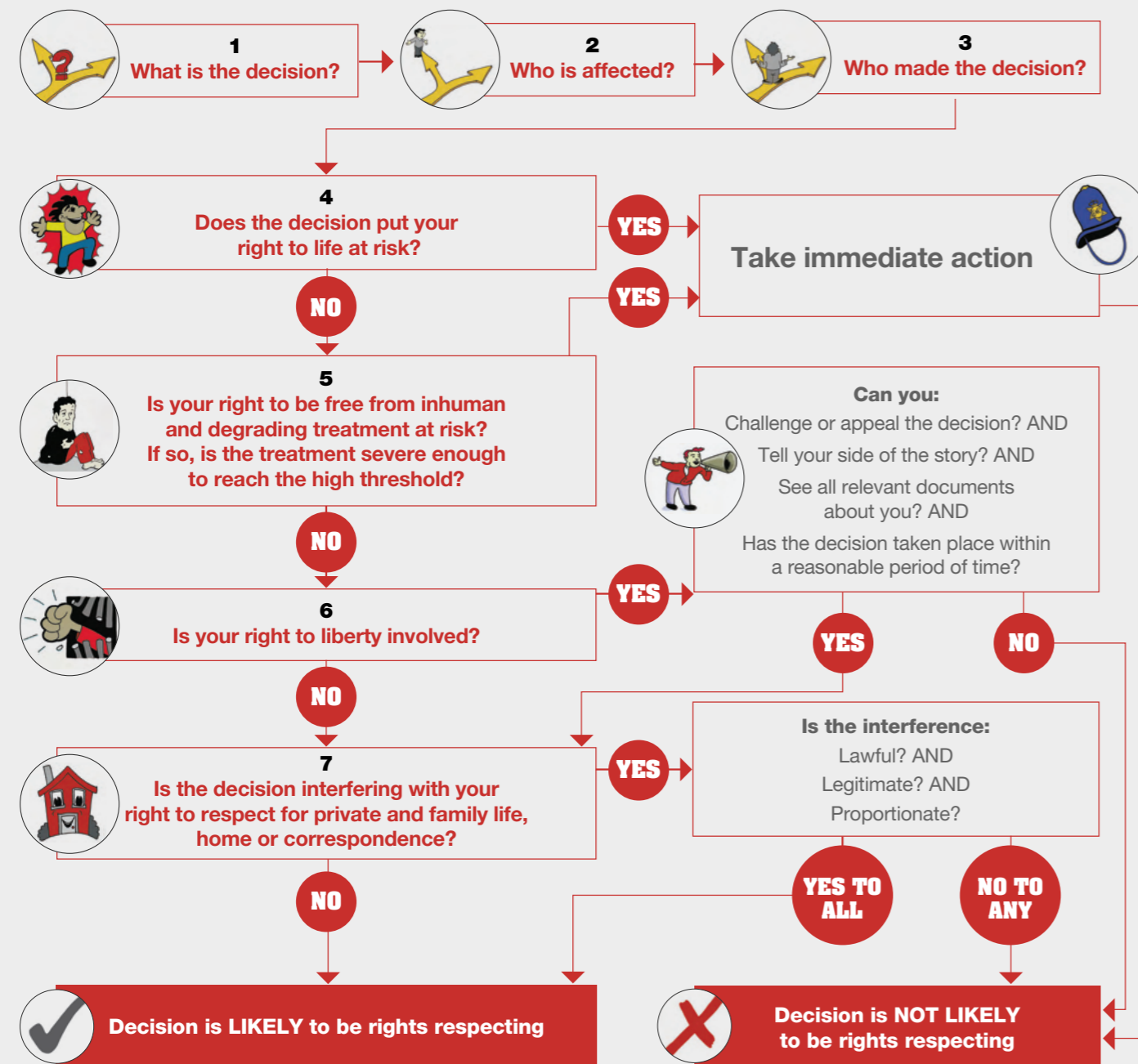


In your advocacy

Advocacy helps people to express their views or concerns, to explore choices, to access information and services, and to protect and promote rights. Human rights also underpin how other laws and restrictions should be applied.

Flowcharts for advocacy: are human rights relevant?

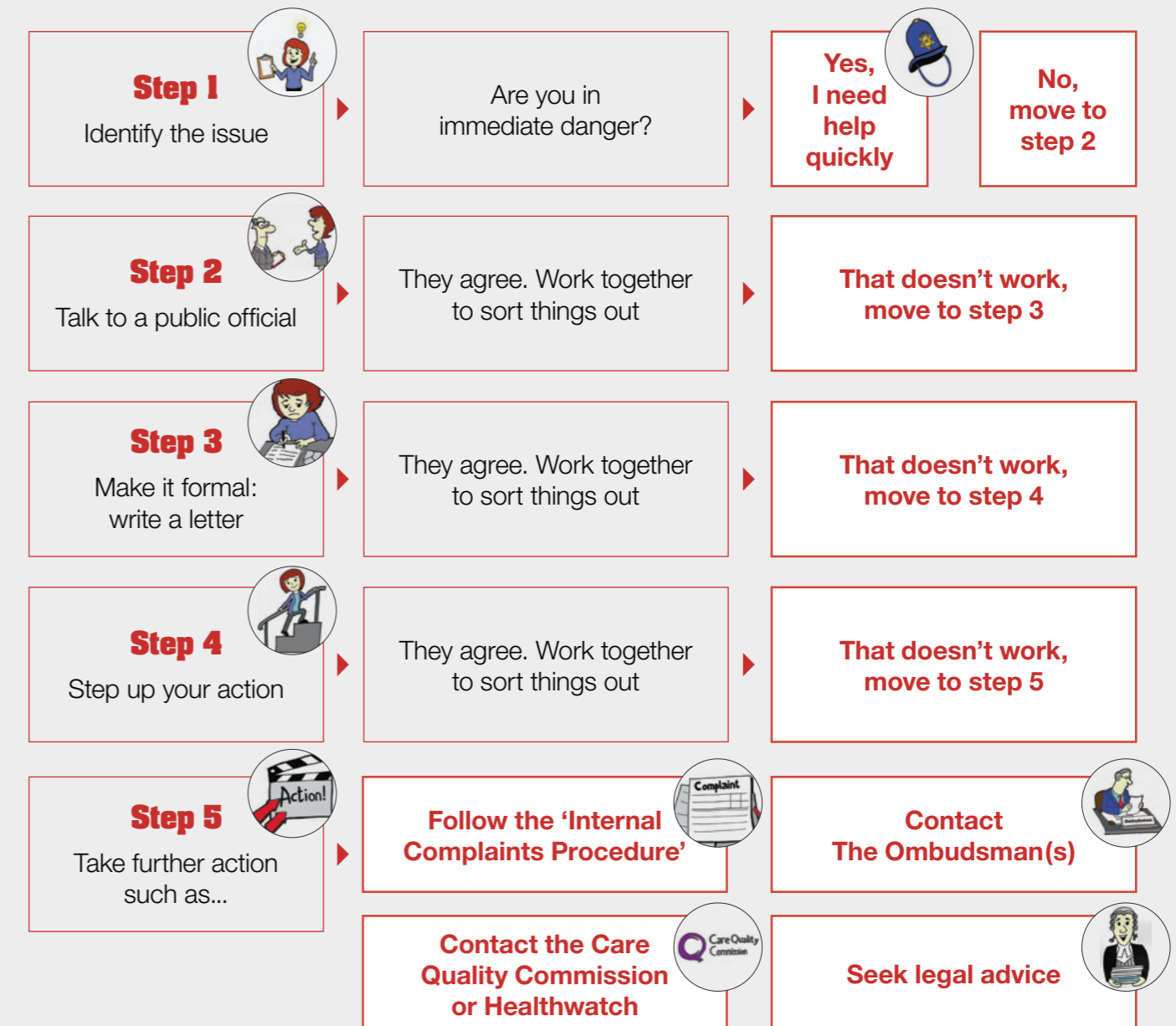
This flowchart can help you decide if the issue you are facing is about human rights or not.



For more information, including tips for each step see our resources on www.bih.org.uk/health

Flowchart for advocacy: what to do next

If your issue is about human rights, this flowchart gives you ideas about how to resolve the issue.



For more information, including tips for each step and worked examples and samples, and signposting, see our resources on www.bih.org.uk/health.

If you need legal advice see www.bih.org.uk/help for organisations that may be able to help.

The rights protected by our Human Rights Act:



Right to life
(Article 2)



Right not to be
tortured or treated in an
inhuman or degrading way
(Article 3)



Right to be free
from slavery or
forced labour
(Article 4)



Right to liberty
(Article 5)



Right to a fair trial
(Article 6)



Right not to be punished
for something which
wasn't against the law
when you did it
(Article 7)



Right to respect for private
and family life, home and
correspondence
(Article 8)



Right to freedom of
thought, conscience
and religion
(Article 9)



Right to freedom
of expression
(Article 10)



Right to freedom of
assembly and association
(Article 11)



Right to marry
and found a family
(Article 12)



Right not to be discriminated
against in relation to
any of the human rights
listed here
(Article 14)



Right to peaceful
enjoyment of possessions
(Article 1, Protocol 1)



Right to
education
(Article 2, Protocol 1)



Right to
free elections
(Article 3, Protocol 1)



Abolition of the
death penalty
(Article 1, Protocol 13)

The British Institute of Human Rights works with advocacy and community groups and public services to illustrate the transformative impact human rights have for people. Our work relies on the support of those who care about human rights.

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