

# HUMAN RIGHTS: A TOOLKIT FOR ADVOCATES

**Action for Advocacy**  
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## **Human Rights: A Toolkit for Advocates**

This toolkit is based on the development and delivery of an initial series of ten **'Human Rights: a Tool for Advocates'** training days to advocates across England and Wales. It is not intended as an exhaustive resource, but more of a 'wake up call' for further thinking and better use of existing resources and websites that can support advocates to use Human Rights in their advocacy work.

The materials have been sourced from a range of websites, guides and books which are referenced throughout the toolkit. The training and supporting material was developed with thanks to and support from a range of advocacy organisations and key contacts; British Institute of Human Rights, Older People's Advocacy Alliance, British Institute of Learning Disabilities and Mind.

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Design & Print: [www.tkoprint.com](http://www.tkoprint.com)

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## Introduction

You work for an advocacy organisation. On a daily basis you may come across people who tell you they are not getting a fair deal from services, are experiencing discrimination, or who do not know the system or the choices they have. Some people who seek your advocacy support may know a lot about their rights, others may know very little. You may be working using non-instructed advocacy techniques with people who cannot communicate with you or instruct you at this moment.

Advocates are not legal experts but need to know where to go for more expert advice, what rights and choices the person has around their issue and how they can be empowered to progress their issue. Chances are you already actively refer to other pieces of legislation.

Legislation can help people to know more about their rights in relation to the specific area you work in. For example if you are an advocate who works with people on a mental health ward or in the community you are probably very aware of the Mental Health Act, the Mental Health Act Code of Practice and the Community Care Act to name a few. Often cases are complex and a person may come to you with a housing issue that is in fact affecting their mental health, so you may have some knowledge of housing legislation as well.

If you have been working as an advocate for a while you may have come across situations where you felt 'this isn't right, this person's rights are not being respected' but not quite known for sure how it was actually related to the Articles in the Human Rights Act 1998.

If you have worked with people who have for example:

- Been sectioned without having timely access to an interpreter when English is not their first language;
- Been left in their own waste;
- Been provided with no options around housing that show any respect for their family or private life;
- Been subjected to a 'blanket ban' by a public authority;
- Not had cultural needs taken into account in a shared local authority residence, hospital or prison;
- Been discriminated against on the basis of their sexuality, age, ethnicity or suchlike for example by being denied the opportunity to engage in social activities that other clients/residents/patients partake in as part of their care

.... then the likelihood is you may have seen potential breaches of the Human Rights Act 1998.

Human rights are based on a set of core values which directly relate to advocacy:

**F**airness

**R**espect

**E**quality  
**D**ignity  
**A**utonomy

“Advocacy is taking action to help people say what they want, secure their rights, represent their interests and obtain services they need.

Advocates and advocacy schemes work in partnership with the people they support and take their side. Advocacy promotes social inclusion, equality and social justice.”

(Advocacy Charter 2002)

For more information about Action for Advocacy, the advocacy sector and advocacy related resources and training go to [www.actionforadvocacy.org.uk](http://www.actionforadvocacy.org.uk)

As stated on the Equality and Human Rights Commission website, human rights “...are relevant to your day-to-day life and protect your freedom to control your own life, effectively take part in decisions made by public authorities which impact upon your rights and get fair and equal services from public authorities.

They help you to flourish and fulfil your potential through:

- being safe and protected from harm
- being treated fairly and with dignity
- living the life you choose
- taking an active part in your community and wider society”

Source:

<http://www.equalityhumanrights.com/en/yourrights/humanrights/pages/introductiontohumanrights.aspx>

## **Why use this toolkit?**

### **This toolkit will:**

- help you gain an understanding of the Human Rights Act 1998 and how it applies to advocacy casework.
- provide you with a number of resources (websites, guides and help-lines) which you can use in your advocacy work and share with the person to provide them with further understanding of their rights and tools to progress their issue.
- provide examples of where you can find out what public bodies (such as hospitals, police, housing associations, local authorities and others) have to do in relation to the Human Rights Act 1998.

Please use the toolkit as a springboard for becoming familiar with the human rights resources listed on the useful resources page in Appendix 3.

“Regardless of the way human rights are sometimes reported, they apply to everyone.

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They belong to each and every one of us and they apply close to home as well as abroad.

If you see a campaign for patients' rights, calls for greater scrutiny to prevent abuse in old people's homes or protests about the treatment of children with learning disabilities – you're seeing human rights in action."

For more examples of human rights in action like the one above, download the document

[http://www.equalityhumanrights.com/en/publicationsandresources/Documents/Human\\_rights/Ours\\_to\\_own.doc](http://www.equalityhumanrights.com/en/publicationsandresources/Documents/Human_rights/Ours_to_own.doc)

Test your current knowledge of human rights with this quick true/false quiz.

### Human Rights Quiz

- 1 Human Rights were first legally defined by international agreement after the horrors of the Second World War. True/False
- 2 Under the Human Rights Act everyone has a legal duty to uphold human rights. True/False
- 3 Public bodies must have human rights principles in mind when they are making policies and decisions about people's rights, and be able to demonstrate they have taken this into consideration. True/False
- 4 Since refugees have no right to come to the UK, they must rely on our generosity and the Human Rights Act does not apply to them. True/False
- 5 Using The Human Rights Act 1998 stops you from having your convention rights recognised under the European Court of Human Rights in Strassbourg. True/False
- 6 The language and underpinning values of human rights are useful outside of the courtroom. True/False

**(See appendix 1 for the answers!)**

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## **Rights Protected by the Human Rights Act 1998**

Excerpts sourced from Ministry of Justice publication: Human Rights, Human Lives: A handbook for Public Authorities.

<http://www.justice.gov.uk/docs/hr-handbook-public-authorities.pdf>

Please refer to the above publication for more in depth information under each Article.

(Article 1 is introductory and is not incorporated into the Human Rights Act.)

### **Article 2: Right to life**

A person has the right to have their life protected by law. There are only certain very limited circumstances where it is acceptable for the state to take away someone's life.

### **Article 3: Prohibition of torture, inhuman and degrading treatment**

A person has the absolute right not to be tortured or subjected to treatment or punishment which is inhuman or degrading.

### **Article 4: Prohibition of slavery and forced labour**

A person has the absolute right not to be treated as a slave or to be required to perform forced or compulsory labour.

### **Article 5: Right to liberty**

A person has the right not to be deprived of their liberty – 'arrested or detained' – except in limited cases specified in the article.

### **Article 6: Right to a fair trial**

A person has the right to a fair and public hearing within a reasonable period of time. This applies both to criminal charges against them and to cases concerning their civil rights and obligations. Hearings must be carried out by an independent and impartial tribunal established by law.

### **Article 7: No punishment without law**

A person has the right not to be found guilty of an offence arising out of actions which at the time they committed them were not criminal. They are also protected against later increases in the maximum possible sentence for an offence.

Apart from the right to hold particular beliefs, the rights in Articles 8 to 11 may be limited where that is necessary to achieve an important objective. The precise objectives for which limitations are permitted are set out in each article, but they include things like protecting public health or safety, preventing crime and protecting the rights of others.

### **Article 8: Right to private and family life, home and correspondence**

A person has the right to respect for their private and family life, their home and their correspondence. This right can be restricted only in specified circumstances.

### **Article 9: Freedom of thought, conscience and religion**

A person is free to hold a broad range of views, beliefs and thoughts, and to follow a religious faith. The right to manifest those beliefs may be limited only in specified circumstances.

### **Article 10: Freedom of expression**

A person has the right to hold opinions and express their views on their own or in a group. This applies even if those views are unpopular or disturbing. This right can be restricted only in specified circumstances.

### **Article 11: Freedom of assembly and association**

A person has the right to assemble with other people in a peaceful way. They also have the right to associate with other people, which includes the right to form a trade union. These rights may be restricted only in specified circumstances.

### **Article 12: Right to marry and found a family**

Men and women have the right to marry and start a family. National law will still govern how and at what age this can take place.

(Article 13 is not included in the Human Rights Act.)

### **Article 14: The right not to be discriminated against in relation to any of the rights contained in the European Convention**

A person has the right not to be treated differently because of their race, religion, sex, political views or any other personal status, unless this can be justified objectively. Everyone must have equal access to Convention rights, whatever their status.

### **Article 1 of Protocol 1: Protection of property**

(A 'protocol' is a later addition to the Convention.)

A person has the right to the peaceful enjoyment of their possessions. Public authorities cannot usually interfere with things people own or the way they use them, except in specified limited circumstances.

### **Article 2 of Protocol 1: Right to education**

A person has the right not to be denied access to the educational system.

### **Article 3 of Protocol 1: Right to free elections**

Elections for members of the legislative body (e.g. Parliament) must be free and fair and take place by secret ballot. Some qualifications may be imposed on who is eligible to vote (e.g. a minimum age).

### **Article 1 of Protocol 13: Abolition of the death penalty**

These provisions abolish the death penalty.

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## Key things to know about Human Rights

### What are 'Articles'?

When people refer to the 'Articles' they are talking about the rights that have been inserted from the European Convention on Human Rights and put into our Human Rights Act 1998. The articles will tell you what the different rights mean but also in what circumstances and how they may be limited or restricted.

Some of the articles are more commonly used in advocacy case work than others:

- Article 8 Right to private and family life and correspondence is the most prominent in advocacy case work
- Article 5 Right to liberty, particularly likely to be relevant if you work on a ward or in a residential care setting, and
- Article 3 Prohibition of torture, inhuman or degrading treatment is also referred to in advocacy at times, although the threshold for proving an article 3 violation is high.

In order not to duplicate resources we encourage the use of the Ministry of Justice resource 'Human Rights Human Lives: a handbook for public authorities' alongside this toolkit.

Each article is described in detail and has an explanation of what public authorities **must do** in relation to it. This can be downloaded from the Ministry of Justice website: <http://www.justice.gov.uk/docs/hr-handbook-public-authorities.pdf>

For a copy of the actual Human Right Act 1998 go to:  
[http://www.opsi.gov.uk/acts/acts1998/plain/ukpga\\_19980042\\_en\\_1](http://www.opsi.gov.uk/acts/acts1998/plain/ukpga_19980042_en_1)

For more examples of advocacy casework in relation to human rights download the British Institute of Human Rights 'Changing Lives' document  
[http://www.bihhr.org.uk/sites/default/files/BIHR%20Changing%20Lives%20FINAL\\_0.pdf](http://www.bihhr.org.uk/sites/default/files/BIHR%20Changing%20Lives%20FINAL_0.pdf)

### What are Public Authorities?

As an advocate you will probably have a good knowledge of systems and local providers of services. You may have worked with people to support them to gain access to services, have real choices or to challenge decisions.

When talking about 'public authority' in a human rights context it covers any organisation, authority or institution that operates in the public sector. This covers everything from government departments to primary schools, local libraries and the NHS.

If a public authority commissions another organisation to carry out some of its work (for example care services, driving people to day centres, residential care, or construction work) they count as public authorities (for the purposes of anti-discrimination legislation) because they carry out ‘functions of a public nature’.

“The duties of public authorities apply all along the public sector chain. They are also relevant to public–private partnerships and private finance initiatives.”

<http://www.equalityhumanrights.com/en/forbusinesssandorganisation/publicauthorities/Pages/HumanRights.aspx>

## **Human rights in care homes**

A recent case has determined that human rights protection travels with a service user who is placed in an independent care home by a local authority. This means that the home is required to act compatibly with the Human Rights Act 1998. (In order for section 145 to apply in England and Wales, a service user must be placed in residential accommodation under Part III of the National Assistance Act 1948)

## **Not all rights are absolute**

Often one person’s rights will need to be balanced if they impact on other people’s enjoyment of their rights. The Human Rights Act 1998, and in particular the resources that point out what public bodies must do to protect but also not interfere in people’s rights will help you as an advocate inform the person you are working with.

How the rights are balanced will vary from case to case, for example a Public Authority may ensure their positive obligation to protect the Article 2 Right to Life for someone who is at risk of suicide by limiting their Article 8 right to private and family life and correspondence while keeping them under close observation on a ward.

This may help you support the person to progress the issue from a different perspective than they may have been pursuing. (Or in a non-instructed model it may influence your approach and provide you with a different lens and questions to consider in relation to the issue or decision being made about the person).

The British Institute of Human Rights has a series of non-technical guides for mental health service users, older people, people with disabilities and refugees and asylum seekers which show how different Articles can apply in particular circumstances and how to promote a person’s rights even if they may need to be balanced

<http://www.bihhr.org.uk/resources/guides>

## Identifying the type of right

**This information was sourced from the Ministry of Justice handbook for local authorities which we recommend for further reading.**

1) Is it **absolute**? These must never be limited or restricted in any way:

- Article 3: the prohibition of torture and inhuman or degrading treatment or punishment
- Article 4: Prohibition of slavery and forced labour
- Article 7: No punishment without law
- The first part of Article 9: the right to hold particular beliefs
- Protocol 13: the abolition of the death penalty

If a right is non-absolute it is either 'limited' or 'qualified'.

2) Is the right a **limited** right?

If the right is limited the European Convention sets out specific circumstances in which the right can be limited.

For example in Article 5: Right to Liberty there are six instances in which article 5 may be lawfully restricted:

- Following conviction by a criminal court
- For failure to obey a court order or legal obligation
- To ensure someone attends court if there is reasonable suspicion they have committed a crime or to prevent them committing a crime or escaping after they have done so
- To ensure a minor receives educational supervision or attends court
- In relation to a person who is shown to be of unsound mind, an alcoholic, drug addict or a vagrant or who may spread an infectious disease if not detained
- To prevent unauthorised entry into the country or in relation to a person against whom steps are being taken with a view to deportation or extradition.

But these can only be limited if the public authority has **made sure** they have followed directions about what they also must do in relation to this, which includes things like making sure people have the information about why their liberty is being taken away in a simple straightforward language that they can understand. This is something that advocates have used to challenge better and more speedy access to interpreters on wards for example. For more examples download the Ministry of Justice handbook for public authorities.

3) Is it a **qualified** right?

Qualified rights may be restricted under more general conditions in order to protect the

rights of others or the wider community. These rights can only be interfered with if the state can show that the restriction:

- Is lawful
- Has a legitimate aim (public authorities can only rely on the stated legitimate aim when restricting the right in question – such as national security, protection of rights of others etc.)
- Is necessary in a democratic society (the restriction must fulfil a pressing social need and be proportionate to that need).

## Proportionality

This principle is crucial in how qualified rights are interpreted. It is most commonly referred to by the saying 'don't use a sledgehammer to crack a nut'. When taking decisions that may affect any of the qualified rights a public authority must interfere as little as possible with the right and only go as far as necessary to achieve the legitimate aim.

A question often asked in advocacy is how proportionate the impending proposal or action taken by the public authority is in relation to the human rights issue, and whether alternative options have been considered or made available to the person.

It is good to know that financial/resource restrictions cannot be the sole reason public authorities provide for making a certain decision in relation to a human rights issue.

## Making sense of Human Rights

You will want to have an understanding of which Articles might apply to advocacy case work, without necessarily becoming an 'expert' in human rights legislation.

You will need to actively search the Equality and Human Rights Commission link to each of the Articles to find out if the issue the person you are working with is facing may have a human rights impact

<http://www.equalityhumanrights.com/en/yourrights/humanrights/pages/humanrights.aspx>

You will also want to double check your 'hunch' as to which articles apply, with the experts on the advice lines who can provide you with more information around progressing the issue

<http://www.equalityhumanrights.com/en/foradvisers/pages/specialistadviceforadvisers.aspx>

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You can read the previously quoted Ministry of Justice Handbook for public authorities to see what public authorities must do in relation to each Article.

You can also try the Liberty website and advice line for this  
<http://www.yourrights.org.uk/vas/>

Please first consider supporting the person you are working with to conduct this research themselves or with you and make the calls if this is appropriate and they are able to.

## Case study examples of Article 8

An example of the depth of information you can gain from using the other websites is outlined using Article 8 which is most commonly used by advocates in their casework:

### **Article 8: Right to private and family life, home and correspondence.**

A person has the right to respect for their private and family life, their home and their correspondence. This right can be restricted only in specified circumstances.

The right to a private life means that you have the right to carry on your life privately, without government interference, as long as you also respect the rights of other people. The courts have interpreted the concept of 'private life' in a very broad way. It covers things like your right to choose your sexual identity, your lifestyle, and the way you look and dress. It also includes your right to control who sees and touches your body. For example, this means that public authorities cannot do things like leave you undressed in a busy ward, or take a blood sample without your permission.

The concept of private life also covers your right to develop your personality and to develop friendships and other relationships. This includes a right to participate in essential economic, social, cultural and recreational activities of the community. In some circumstances, public authorities may need to take steps to support you to realise your right to a private life, including your ability to participate in society.

The right to private life means that the media and others can be prevented from interfering in your life. It also means that personal information about you (including official records, photographs, letters, diaries and medical records), should be kept securely and not shared without your permission, except in certain circumstances.'

(Source: Equality and Human Rights Commission website)

### **What must a public authority do?**

- Always be alert to policies or actions that might interfere with a person's right to respect for their private and family life, their home and their correspondence.
- Where possible, a public authority should try to ensure that its policies or decisions do not interfere with someone's right to respect for private and family life, their home and their correspondence.
- If a public authority does decide that it is necessary to interfere with someone's Article 8 rights, it will need to make sure that the policy or action is necessary, pursues one of the recognised legitimate aims and is proportionate to that aim. A public authority may

be asked to produce reasons for its decisions.’

(Source ministry of Justice Handbook for Public Authorities)

**Below are two advocacy case study examples where the advocate referred to Article 8:**

Janie is a mental health advocate who provides advocacy on a secure mental health ward. She has been approached by Mikaela, who is staying on the ward, about the issue of access to water. She tells you one person on the ward has a health problem involving water retention, as a result all water has been shut off in kitchen areas in between food preparation times. Mikaela has complained to no avail. Janie carefully listened to Mikaela, noting she had already self advocated on numerous occasions.

She talked with Mikaela about her options regarding where to turn next, explaining the formal complaints procedures and also providing information to Mikaela about her rights by giving her a copy of the British Institute of Human Rights Guide for Mental Health Service Users.

They looked through this together and identified that not having access to a drink of water in a locked ward may be a potential breach of Article 8, Right to private and family life, with specific reference to physical and mental well-being. Mikaela asked the advocate to informally mention this to the ward manager to see if things would change as a result, opting to leave a more formal complaint process and taking the case further as a plan B. The Ward Manager agreed to change this practice and allow all people on the ward to access water between meals.

Morgan is 34 and has a learning disability, he would like to leave his parents house and live by himself. Ideally he would like to buy his own house. He has a part time job at a local electronics shop. His social worker has told him he can't buy his own house.

People with learning disabilities are often able to live more independently but lack information about their rights and entitlements such as mortgage support and independent living.

Masoud who is Morgan's advocate worked with Morgan to clarify that people have a right under Article 8 to respect for private and family life, home and correspondence. The local authority has a responsibility to actively protect family life to help people lead as regular a family life as possible.

Masoud supported Morgan to challenge the social worker's opinion and request written information as to why the decision was made that 'he can't buy his own house'. In the letter Morgan also stated his concerns about the lack of options that were presented to him and asked for more information about his rights and options. The social worker has since provided more information to Morgan about his options around housing and support for independent living.

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There are lots more examples of how advocates have used Human Rights in their practice in the British Institute of Human Rights document;  
[http://www.bihhr.org.uk/sites/default/files/BIHR%20Changing%20Lives%20FINAL\\_0.pdf](http://www.bihhr.org.uk/sites/default/files/BIHR%20Changing%20Lives%20FINAL_0.pdf)  
and also in their series of guides aimed at older people, mental health service users, refugees and asylum seekers and people with disabilities.  
<http://www.bihhr.org.uk/resources/guides>

## **How do advocates use human rights language effectively?**

The simple answer is ‘in many different ways’, and always tailored to the specific situation the client finds themselves in. If you are an instructed advocate ensure never to take action without being directed, supporting the person themselves to take action if they are able to and want to. Checking things out with the experts will provide you with more language to use or avoid in your advocacy work. Use the Human Rights Act as a common language that public authorities should be using or at least be aware of and actively promoting and implementing.

One advocate who came on the Action for Advocacy Human Rights training stated ‘it has given me much more confidence to do the advocacy work; knowing about the human rights articles in relation to each case makes the person and I feel stronger to pursue the issue even if the client decides never to actively talk about their human rights’.

Many advocates use a ‘softly-softly’ approach initially, allowing the health or social care worker or organisation to correct their approach before taking on a more formal advocacy strategy. Another advocate who regularly uses human rights in her advocacy work said ‘no-one wants to be known as a ‘General Pinochet’, raising awareness of the public authorities’ (and the individual worker’s) responsibilities can already make a big difference’.

Lots of Independent Mental Capacity Advocates are quoting the Human Rights Act and directly referencing the Ministry of Justice Handbook for Public Authorities to provide additional weighting to the information they are putting into their reports.



## What is an advocate's role in relation to the Human Rights Act?

Looking at your advocacy role using a human rights perspective will pose a number of questions as part of the advocacy cycle (the next list is not exhaustive)

Please use the Human Rights Act in addition to any other legislation you may be using rather than as a replacement for your usual advocacy strategy.

Thinking through the following questions will allow you to develop a framework for using the Human Rights Act in your advocacy casework. Be creative, add more questions and think about an organisational approach to some of these!

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## Building your human rights framework

### Engagement:

- 1 What do you know about the Human Rights implications that apply to the advocacy issue the person has brought?
- 2 What does the person know about their rights?
- 3 What do you need to get further clarification/expert advice about?
- 4 What is the best way to communicate with this person about their rights?
- 5 Whether you are using non-instructed or instructed advocacy, consider the added value a human rights perspective would provide to your other advocacy approaches.
- 6 Take into account at this stage what assumptions might be being made by everyone concerned (including you!).
- 7 What organisational support do you need?

### Planning:

- 1 What has the person done so far about having their rights met and what would they like to do next?
- 2 How will you gain direction from the person and what is their preferred method of communication? (in non-instructed advocacy there is an underlying value base that advocates will always try to find a way to communicate with the person first.)
- 3 What assumptions have been made about the issue or the person that need to be checked out?
- 4 Is there a potential breach?
- 5 Who has identified the potential breach?
- 6 What article(s) are relevant and how do they apply?
- 7 Is the person aware of any potential breaches?
- 8 Have you and/or the person researched and clarified the issues with the Equality and Human Rights Commission, Liberty or another experienced advisor?
- 9 What are the positive obligations on the part of the public authority? also consider 'balancing' and 'proportionality' implications
- 10 What are all the options?
- 11 How will you manage expectations? (yours and the person you are working with!)
- 12 What else would they like to know?
- 13 Where can the person go for support, legal advice or further information?
- 14 What can they do for themselves or with your support?
- 15 Develop an agreed action plan that is directed by the person and that clearly outlines who will do what by when.

**16** For non instructed advocates consider questions 2-9 and plan your communication strategy (verbal/written reports/questions and requests for information or evidence of decision-making processes that take into account what public authorities must do in relation to the Article(s) concerned).

**Action:**

- 1 What has the person identified as the next steps in the action plan?
- 2 What communication strategies have you explored with the person around communicating about their rights with other professionals?
- 3 What direction have you been given by the person?
- 4 How will you build on their confidence?
- 5 How will you make sure you only take action when directed by the person?
- 6 What other support is available?
- 7 Putting your plan into action, do what you agreed to do (not more or less)
- 8 How will you keep the person central to the process and feedback to each other on agreed actions?
- 9 For non instructed advocates put your communication plan around using human rights approaches into action as well as your other non-instructed approaches.

**Review:**

- 1 What were the outcomes of the steps you agreed?
- 2 Is the advocacy issue resolved?
- 3 What could be improved upon in future work?
- 4 Did the person remain central to the advocacy process at all times?
- 5 For non-instructed advocates consider question 4 and how your action plan was implemented, what worked and what you would do differently next time.

**In your advocacy service you may want to think about an organisational approach to these questions:**

- Is there consistency about what advocates know about human rights?
- Are there shared resources?
- Is training required?
- How is information updated?
- Are cases reviewed in the light of a potential human rights perspective?
- Are new advocates informed about using human rights as part of their advocacy practice?
- Are advocacy dilemmas shared in the team to progress issues and find options including the use of a human rights framework?

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## What do you do if you suspect a potential breach of human rights?

1. Get support from your line manager.
2. Clarify the situation, which will be case specific. The person you are working with can access advice to see what their options are (or you can do this for or with them if they direct you to.)
3. Look at the Equality and Human Rights Commission website which lists what steps can be taken and all possible options.  
<http://www.equalityhumanrights.com/en/yourrights/humanrights/Pages/Whatcanidoaboutit.aspx>. Both the Equality and Human Rights Commission and Liberty also have help lines.
4. If the person wants to make a complaint first  
<http://www.direct.gov.uk/en/Governmentcitizensandrights/Yourrightsandresponsibilities/index.htm> will provide you with information about how and who to complain to and who is entitled to financial support if the matter is taken further.
5. Keep the person central to the process and identify the options – these will depend on the severity of the case and what the person directs you to do.
6. If you clarified the options with or for the person, identify the best way to communicate the information with the person without raising expectations.
7. Ensure people are aware of the financial and other implications of their choices and the emotional/stress impact a court case can have on a person's life.
8. Taking the case to court should be a last option and can be expensive if the person does not qualify for legal aid – use the useful resources page to identify sources of legal support. There are strict time limits on taking a human rights case to court from the moment the right was breached. Your role as an advocate may involve supporting the person to explore their options around choosing a lawyer.
9. Next actions will depend on legal advice that has been provided. Human rights cases are heard in ordinary courts. If a case needs to be resolved by a court the person will need to be represented by a solicitor. A person may be awarded damages or an order may be made to prevent the public authority breaching human rights. Often cases can be resolved outside of the courtroom. Depending on your organisation's policies continuing your advocacy support alongside the legal process may be an option.
10. People need to have gone right through the UK court system without success before they are able to take their case to the European Court of Human Rights in Strassbourg, France <http://www.echr.coe.int/echr/>

(Information on this page was adapted from [www.equalityhumanrights.com](http://www.equalityhumanrights.com))

## Appendices

Human Rights Quiz Answers  
Human Rights: where did they come from?  
Human Rights: useful resources

### Human Rights Quiz Answers

1. Human Rights were first legally defined by international agreement after the horrors of the Second World War.

**True:** To protect the rights and freedoms of people living in their borders, countries which belong to the Council of Europe (greater Europe also includes countries such as Russia, Turkey and the Ukraine) created a treaty called the 'European Convention on Human Rights' which the UK was actively involved in developing and signed up to in 1951.

2. Under the Human Rights Act 1998 everyone has a legal duty to uphold human rights.

**False:** a private person or body is not required to comply with the Convention, the Human Rights Act requires all public authorities to act compatibly with everyone's Convention rights. The HRA only legally binds public authorities to uphold it.

3. Public bodies must have human rights principles in mind when they are making policies and decisions about people's rights

**True:** Public bodies have a **positive obligation** to take proactive steps to protect human rights regardless of who or what is causing the harm. They need to do more than simply refrain from action that may violate human rights. Public bodies have to consider how all policies or decisions they make may have a human rights impact.

4. Since refugees have no right to come to the UK, they must rely on our generosity and the Human Rights Act does not apply to them.

**False:** The Human Rights Act **applies to everyone in the UK regardless of their status**. "Everyone has the right to seek and enjoy in other countries freedom from persecution" (Article 14). A person exercising this right to enter another country and seek protection is known as an "asylum seeker". The UK has an international obligation to determine asylum seekers' claims and if they are found to be refugees, afford them protection.

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5. Using The Human Rights Act stops you from having your convention rights recognized under the European Court of Human Rights in Strassbourg.

**False:** The Human Rights Act 1998 (HRA) has incorporated the European Convention on Human Rights (ECHR) into UK law. This does not stop you taking your case to the European Court for consideration once you have exhausted all routes in the UK. The fundamental impact the Human Rights Act has made is that it is now much easier and quicker to rely on the articles in the convention than prior to incorporation.

6. The language and underpinning values of human rights are useful outside of the courtroom.

**True:** Many of the case studies used today and previously collected by organisations such as BIHR highlight that using HR language can improve people's experience of public services and quality of life.

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## Human rights, where did they come from?

### International context

Human rights are not a new idea; the push for people to be treated with dignity and respect, have fair access to services and have autonomy where possible has been around for a long time through many different societies and civilisations.

Go to the British Institute of Human Rights (BIHR) website for a timeline if you are interested in finding out more about the history of human rights.

<http://www.bihhr.org.uk/documents/general/human-rights-timeline>

In 1948 after the Second World War the Universal Declaration of Human Rights (UDHR) was agreed by member states of the United Nations.

For a full copy of the Universal Declaration of Human Rights follow this link

<http://www.unhchr.ch/udhr/index.htm>

International human rights treaties express the fundamental rights of the UDHR bind the states that agree to them such as the Convention on the Rights of the Child and the

Convention on the Rights of Persons with Disabilities.

### **Regional context**

There are also regional human rights treaties such as the European Convention on Human Rights (ECHR - which the UK is signed up to), the American Convention on Human Rights and the African Charter on Human and People's rights.

The full text of the European Convention on Human Rights can be downloaded here <http://www.echr.coe.int/ECHR/EN/Header/Basic+Texts/Basic+Texts/The+European+Convention+on+Human+Rights+and+its+Protocols/>

### **What does it mean for the UK?**

The majority of the articles (which outline the rights) in the European Convention on Human Rights have been lifted into our domestic legislation: the Human Rights Act 1998.

For the full text of the Human Rights Act 1998 follow this link [http://www.opsi.gov.uk/acts/acts1998/ukpga\\_19980042\\_en\\_1](http://www.opsi.gov.uk/acts/acts1998/ukpga_19980042_en_1)

For more information on the different types of human rights laws, please see BIHR's 'Protecting human rights in the UK'.

<http://www.bihhr.org.uk/sites/default/files/Protecting%20human%20rights%20in%20the%20UK.pdf>

Having the Human Rights Act in place in the UK means that these rights are now part of our domestic law and courts here can hear human rights cases. Previously people in the United Kingdom had to complain to the European Court of Human Rights in Strasbourg and although this can still happen once all UK channels have been exhausted the process was designed to bring faster resolution for anyone seeking to take a case.

You can find out more about the European Court of Human Rights here <http://www.echr.coe.int/echr/>

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## **HUMAN RIGHTS: Useful resources**

### **ECHR the Equality and Human Rights Commission:**

#### **[www.equalityhumanrights.com](http://www.equalityhumanrights.com)**

Information about human rights, the values underpinning human rights legislation and information about what to do if you feel your human rights may have been breached in particular circumstances.

<http://www.equalityhumanrights.com/en/publicationsandresources/Pages/Ourstoown.aspx>

this document will help provide a better understanding of Human Rights.

The Equality and Human Rights Commission also has several helplines including one for advice workers that advocates can also use.

### **British Institute of Human Rights: [www.bih.org.uk](http://www.bih.org.uk)**

<http://www.bih.org.uk/resources/guides> Set of four guides to the Human Rights Act (with a focus on people with disabilities, mental health service users, older people and refugees and asylum seekers).

[http://www.bih.org.uk/sites/default/files/BIHR%20Changing%20Lives%20FINAL\\_0.pdf](http://www.bih.org.uk/sites/default/files/BIHR%20Changing%20Lives%20FINAL_0.pdf)  
'Changing Lives' is a collection of 15 case studies that illustrate how human rights can make a difference beyond the courtroom.

<http://www.bih.org.uk/projects/human-rights-in-healthcare-project> this document sets out a framework for health - implementing a human rights based approach.

'Right Here, Right Now: Teaching citizenship through human rights' was developed by the BIHR and Ministry of Justice as a teaching tool for children,

**<http://www.bih.org.uk/projects/human-rights-in-schools>**

### **Liberty: [www.yourrights.org.uk/vas/](http://www.yourrights.org.uk/vas/)**

On this website you will find general information about the Human Rights Act, answers to frequently asked questions, recent case summaries and detailed advice. Liberty runs a free human rights advice service for members of the public. In the first instance you can go to their advice website which contains a range of information on human rights issues and the UK Human Rights Act as well as how to seek legal advice. You can request specific online advice.

### **Ministry of Justice: [www.justice.gov.uk](http://www.justice.gov.uk)**

<http://www.justice.gov.uk/docs/hr-handbook-public-authorities.pdf> A handbook for public authorities – useful for advocates as it states what public authorities must do in relation to each Article

<http://www.justice.gov.uk/docs/hr-handbook-introduction.pdf> a short introduction to help public authorities make sense of human rights

<http://www.justice.gov.uk/docs/human-rights-act-learning-disabilities.pdf> A booklet for people with learning disabilities

**DirectGov: [www.direct.gov.uk](http://www.direct.gov.uk)**

<http://www.direct.gov.uk/en/Governmentcitizensandrights/Yourrightsandresponsibilities/index.htm> Information about where your rights come from, rights and responsibilities, and easy steps describing how to make a complaint. Has links to a human rights guide in different community languages.

**Mind: [www.mind.org.uk](http://www.mind.org.uk)**

<http://www.mind.org.uk/Information/Legal/Legal+briefing+The+Human+Rights+Act+1998.htm> Legal briefing on the Human Rights Act and Mental Health. Keep an eye on the mind website for updates on other useful legislation relating to mental health service users.

**Advice UK: [www.adviceuk.org.uk](http://www.adviceuk.org.uk)**

A UK network of advice-providing organisations. They do not give out advice themselves, but the website has a directory of advice-giving agencies.

**Citizens Advice: [www.citizensadvice.org.uk](http://www.citizensadvice.org.uk), [www.adviceguide.org.uk](http://www.adviceguide.org.uk)**

The Citizens Advice service provides free, independent and confidential legal advice, and can help you find a solicitor. To receive advice, contact your local Citizens Advice Bureau, which you can find by visiting the website. They also have a separate website with advice on a range of topics, including human rights.

**Community Legal Service (CLS): [www.clsdirect.org.uk](http://www.clsdirect.org.uk)**

The CLS can help you find legal advice and information from a range of sources, including Citizens Advice Bureaux, law centres, independent advice centres and high street solicitors across England and Wales. You can also find out more about legal aid and whether you might be entitled to financial help with your case. The CLS helpline can give you free advice about benefits, tax credits, debt, education, employment or housing if you qualify for legal aid.

**Law Centres Federation: [www.lawcentres.org.uk](http://www.lawcentres.org.uk)**

The Law Centres Federation is the national coordinating organisation for a network of community-based law centres. Law centres provide free and independent specialist legal advice and representation to people who live or work in their catchment areas. The Federation does not itself provide legal advice, but can provide details of your nearest law centre.

**The Law Society: [www.lawsociety.org.uk](http://www.lawsociety.org.uk)**

The Law Society is the representative organisation for solicitors in England and Wales. Their website has an online directory of law firms and solicitors. You can also call their enquiry line for help in finding a solicitor. They do not provide legal advice.

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**Rights of Women: [www.rightsofwomen.org.uk](http://www.rightsofwomen.org.uk)**

A voluntary organisation dedicated to women's rights. They have an advice line providing free confidential legal advice to women.

**Parliamentary Ombudsman: [www.ombudsman.org.uk](http://www.ombudsman.org.uk)**

If you need to make a complaint about a UK government department, or one of its agencies or the NHS in England you can find out more about the appropriate route, make a complaint online or call their complaint helpline.

**Law Works: [www.lawworks.org.uk](http://www.lawworks.org.uk)**

Law works is a pro bono solicitor's service that can be applied for by visiting a Law Centre, Citizens Advice Bureau or one of their clinics.

**Audit commission: [www.audit-commission.gov.uk](http://www.audit-commission.gov.uk)**

Audit commission report on Human Rights and equality and dignity in public services.

**Legal Action Group: [www.lag.org.uk](http://www.lag.org.uk)**

Information on HR, resources and training.

**Department of Health: [www.dh.gov.uk](http://www.dh.gov.uk)**

'Search' for 'human rights' for the latest PCT training resources, good practice publications including a document that provides NHS Trusts with guidance on implementing a human rights based approach to health- a local framework for action.

**National health service litigation authority: [www.nhs.uk](http://www.nhs.uk)**

The service provides access to a free database of human rights law of relevance to the NHS. A series of casesheets highlight key cases in specific areas of healthcare law.

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**Action for Advocacy (A4A) is the central point of information on advocacy for advocacy providers, the wider voluntary and community sectors, policy makers and members of the public looking for advocacy support. We provide a wide range of information, training and capacity building services and have developed an advocacy specific Quality Performance Mark that supports advocacy organisations to evidence good practice.**

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