

# Human Rights Framework for Adults in Detention

# Human rights framework for the inquiry

Section A of this framework can be used as a checklist by those holding adults in detention in a range of settings. A failure to ensure that the following rights are in place may indicate a breach of Article 2 of the European Convention on Human Rights incorporated into domestic law by the Human Rights Act. This list is based on case law.

Overarching both sections of the framework is the obligation under Article 14 of the Convention to ensure that there is no discrimination in the enjoyment of Article 2 rights.

## A | Obligation to protect

An obligation to protect life by ensuring the provision of a safe and respectful environment; in particular, by ensuring:

1. Freedom from physical abuse by staff or other detainees
2. Freedom from bullying, threats and disrespectful treatment by staff and other detainees
3. Freedom from neglect by staff or external professionals
4. Freedom from unlawful use of physical restraint
5. An effective risk assessment by a qualified practitioner either before or as soon as reasonably practicable after initial detention
6. An effective review of that risk assessment at regular intervals thereafter
7. Dissemination of those assessments to relevant agencies within and outside of the setting
8. Access to timely and appropriate medical and mental health treatment and support
9. Access to appropriate social support, such as listeners, insiders and regular family contact
10. Information and advice in an appropriate format on how to access this treatment and support
11. Treatment for drug and alcohol abuse and protection from access to them
12. Proportionate individualised protection where the detainer knows or should know there is a real and immediate risk to life.

## **B | Obligation to investigate**

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Section B of this framework can be used as a checklist by those investigating non-natural deaths of adults in detention in a range of settings. This list is based on case law.

To conduct an effective investigation which:

1. The state initiates itself
2. Appoints an investigator independent of those implicated in the death
3. Begins promptly and concludes as quickly as is reasonable
4. Takes all reasonable steps to secure relevant evidence relating to the death
5. Takes all reasonable steps to uncover any discriminatory motive behind the death
6. Makes the investigation and its results open to public scrutiny
7. Involves the next of kin and ensures that their interests are protected
8. Holds to account anyone found to be at fault as a result of the investigation
9. Shares and puts into practice lessons learned from the investigation to ensure, so far as is possible, that steps are then taken to minimise the risk of similar deaths in the future.