

Using Human Rights

A human rights resource for Hopscotch staff



Created in collaboration:

hopscotch

WOMEN'S CENTRE

The British Institute of Human Rights

bihr.org.uk





Contents

Page 2

Who is this guide for and how will it support me in my work?

Page 8

What rights are relevant to the people that I support?

Page 9

The right to be free from inhuman and degrading treatment

Page 13

The right to private and family life, home and correspondence

Page 17

The right not to be discriminated against

Page 21

Flowchart: using human rights

Page 23

Top tips for raising human rights issues

Page 27

Letter template

Page 31

Where to get more information and support

Page 32

Glossary

This guide is for information purposes only. It is not intended, and should not be used, as legal advice or guidance. The law referred to in this guide may have changed since it was published



About This Guide

Who is this guide for?

This guide was created together with staff members from Hopscotch Women's Centre. The guide is aimed at everyone that works in Hopscotch Women's Centre. It will be particularly useful for staff that work in roles in which they support women to interact with public services.



BIHR is a UK-wide charity working with people, communities and public bodies to make positive change through human rights.



Hopscotch Women's centre aims to support and empower women and girls in London from minoritized communities

How was this guide created?

This tool was created as part of a project with the British Institute of Human Rights called "Co-design a human rights solution". You can read more about this project [here](#). Hopscotch women's centre identified that they would like to create a guide to support staff to develop human rights knowledge and to feel confident to use this knowledge to support the women who access their services. As part of the guide development, Hopscotch asked their staff what they would like to know more about and what they wanted the guide to look like. Staff fed back their views and suggestions on the content and design of the guide several times before its final format.

How will it support me in my role?

You can use this guide to find out more about:

- What human rights are and how they are protected
- How the Human Rights Act works
- Human rights most relevant to your work
- People's real life stories
- How to raise a human rights issue





Foreword from Fairuz Choudhury, Programmes Manager, Hopscotch

At Hopscotch Women's Centre, we provide a range of services to empower, support and advocate for women. We specialize in working with women from Black and minoritised ethnic backgrounds. Human rights matter to minoritized communities but most of our service users are unaware of their rights.





Almost all the women who access our services, are affected by intersectionality- poverty, racism, sexism, discrimination and unconscious bias, making it more difficult for them to access their rights and have equal opportunities. As Hopscotch provides a holistic service, we are witness to the severe disadvantage that some of our service users constantly face in their interactions with public authorities. For instance, access to housing that is safe and of adequate standard is at times non-existent for the women we support. Women with children who are living below the poverty line and should have access to grants, have their grant applications rejected. Women from Black and minoritised ethnic backgrounds with no recourse to public funds, find it that much more challenging to flee a violent marriage or abusive relationship. Women from Black and minoritised ethnic backgrounds with mental health needs are often not taken seriously, thus not being able to access appropriate mental health support. We regularly support women who have their human rights compromised by a systemic failure which stems from a lack of understanding of trauma and its effects on the survivor.

We believe that women's and girl's rights are human rights. We continue to explain the rights of the women and girls we work with and support them in challenging the violation of rights. We will continue to advocate for a system change and more accessible services for Black and minoritised women by educating them about the Human Rights Act and how they can use it to hold public authorities accountable. The guide that we have co-designed with the British Institute of Human Rights, reinforces our commitment to support the women and girls we work with. It will better equip us to use the Human Rights Act to support the women and girls we work with, to talk about human rights within their communities, so that everyone knows that human rights are for all of us and not just for the privileged.

What are human rights?

Human rights are our basic freedoms. They protect the things most important to us and our lives.

Human rights make sure that people are:

-  treated fairly
-  treated with dignity
-  treated with respect
-  listened to and have a say over their lives

Human rights are the law.

Human rights are the rule book for how we can be expected to be treated by the government, including public services and their staff.

Human rights are more than values, upholding human rights is the law. In the UK, this law is called the Human Rights Act.

Asking for your human rights to be respected is not asking for special treatment.

Who has human rights?

Everyone has human rights. They are 'universal' which means they belong to everyone – no matter who you are. It doesn't matter where you were born, if you are in the UK, your human rights are protected by our human rights law, the Human Rights Act.

We are all born with human rights and, although they can sometimes be limited or restricted, your rights cannot be taken away from you.



How are human rights protected?

The Human Rights Act is the main way your human rights are protected in the UK.

The Human Rights Act contains a list of 16 rights (called 'Articles'). You can find these on the next page; click each icon for more information.

The rights in the Human Rights Act are taken from the European Convention on Human Rights. The UK helped write the Convention.

Before we had the Human Rights Act in the UK, you had to go to the European Court of Human Rights (in France) to get help. This is far away, and it can take years to get your case heard. The Human Rights Act means you can now use the justice system here in the UK.

How does the Human Rights Act work?

These are 3 things you need know about how the Human Rights Act works:

1

The legal duty

The Human Rights Act puts a legal duty on public authorities to respect and protect human rights across their actions, decisions, policies, services, etc.

2

All other laws should respect your human rights, as far as possible

For example, if you are worried about how a part of the Mental Health Act is affecting your human rights, you can ask a court to look at this.

3

You can ask your local court or tribunal to help with your rights

If 1 and 2 are not complied with people can now bring legal cases in the UK courts. But you don't need a lawyer to use the Human Rights Act. You can raise any human rights issues directly with public authorities.

The 16 rights in the 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)



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



Right to education
(Article 2, Protocol 1)



Right to free elections
(Article 3, Protocol 1)

What does this legal duty mean for public services?

Under the Human Rights Act public authorities (and the officials who work for them) by law must protect, respect and fulfil human rights in every service they provide, in every action and decision, every day.

This means that public services (and the officials who work for them) must:



Respect your rights

They must not restrict them or try to breach them. This can only happen in some limited situations.



Protect your rights

They must step in and take positive action to protect people from harm. This is usually called safeguarding.



Fulfil your rights

They must investigate when things have gone wrong (and try to stop it from happening again).



Need to Know!

If you work as a carer for Hopscotch Homecare service you are very likely to be classed as a public official. This is because you are working for a service that carries out an act of public function. This means that you have a duty to respect, protect and fulfil human rights (as described above) in everything that you do in your role.

What does this legal duty mean in everyday life?

This duty is really important in everyday situations because if someone you support in your role is treated badly by services you can:



Support them to speak up because they have human rights which should be respected and protected.



Support them to speak to services about whether they are meeting their legal duty to respect and protect human rights.



Support them to work with services to find better solutions without the need to go to court or use a lawyer.

What rights do people have?

We are all born with human rights and, although they can sometimes be limited or restricted, your rights cannot be taken away from you. The Human Rights Act contains 16 rights. You can find out more about each of these rights [here](#).

The rights in the Human Rights Act are either absolute or non-absolute.

Absolute Rights

Absolute rights can never be restricted, limited or interfered with. There is no excuse for this happening. If a decision or situation is affecting one someone's absolute rights then this is not lawful. Action needs to take place straight away so that this situation does not continue. Absolute rights include the right to life; the right not to be tortured or treated in an inhuman or degrading way; and the right to be free from slavery and forced labour.

Non-Absolute Rights

The majority of the rights in the Human Rights Act are non absolute rights. Non-absolute rights can be limited or restricted in some situations. But this can only happen if a 3 stage test is passed. The decision must be:



Lawful: There must be a law which allows public officials to take that action e.g. the Mental Health Act.



Legitimate: There must be a good reason e.g. to protect a person or others from harm.



Proportionate: This is the least restrictive option. Public officials must have thought about other things they can do but there is no other way to protect the person concerned or other people. You can read more about proportionality [here](#).

This guide looks at 3 rights that are most relevant to your work and the people that you support. These are:



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



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






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







Article 3: The right to be free from inhuman and degrading treatment

This right is protected by Article 3 of the Human Rights Act. This right is an absolute right.

This right protects people from being treated in a way which causes them serious mental or physical harm or humiliates them. This is treatment which:

-  makes a person feel very frightened or worried
-  causes a person a lot of pain
-  makes a person feel worthless or hopeless

Because everybody is different, what is inhuman and degrading treatment for one person might not be inhuman and degrading for another person. It all depends on each person and how treatment affects them. Things that will be taken into consideration include:

-  age
-  ethnicity
-  sex
-  gender identity
-  mental and physical health
-  past experiences

This right protects against very serious harm. Less severe harm which has a less serious impact is protected by the right to respect for private and family life (Article 8).

When might this right be relevant to my work?



Lack of care and support to maintain a dignified life



Lack of care or medication leading to long periods of pain or suffering



If the police are not conducting a proper inquiry into behaviour that puts a person at risk of severe harm



Safeguarding issues including from others and self



If a person is street homeless, destitute and there are exceptional personal factors (for example, they are pregnant)



Previously, courts have found that acts of domestic violence meet the level of inhuman and degrading treatment.



Case Study: Beth

Beth was homeless after she left her abusive partner. The council's housing team initially refused to rehouse Beth, and she started to think that her only option was to return to living with her ex-partner. However, Beth's social worker explained to the housing team that not providing safe accommodation could breach Beth's right to be free from inhuman and degrading treatment due to the risk of further abuse from her ex-partner if she returned home. The housing team looked at their decision again and decided to rehouse Beth.

Can this right be restricted by a public official?

No. This right is absolute. This means it can never be lawfully taken away.

What duties do public officials have about this right?



Respect

A duty not to torture or treat someone in an inhuman and degrading way.



Protect

A duty to take reasonable steps to protect people known to be at risk of inhuman and degrading treatment. This risk could be from another public official or other people like a family member or from the person themselves.



Fulfil

A duty to investigate where inhuman and degrading treatment has occurred. This means looking at what has gone wrong and trying to stop it from happening again.

Real life examples and case studies

Case Study: Lola

Lola, was pregnant woman and had just been refused asylum. She was living in government arranged accommodation and was issued a 'termination of support' notice while she was giving birth in hospital. She was a lone parent, and this was her second child.


The notice period expired while she was still in hospital and on returning home, she and her children would have to leave their flat. Lola got some support from a local charity who said to the housing provider that evicting the family in these circumstances might breach their right not to be treated in an inhuman and degrading way (Article 3).

The provider decided to change the status of the notice, giving Lola's and the charity time to apply for (section 4) support for the family. The application was successful and housing for the family was secured.

Hopscotch Stories: Aarathi

Aarathi is a 27-year-old woman who was born in Bangladesh but moved to the UK after getting married. Aarathi separated from her husband due to domestic abuse and approached the council for help with housing.

The council placed Aarathi and her 2-year-old son in a refuge. They were told this would be temporary accommodation and they would be moved into a new home after 3 months. However, Aarathi and her son were left in the refuge for 18 months and during this time, they experienced repeated verbal and physical aggression from other residents who said Aarathi's son was too noisy. Aarathi felt bullied and trapped; she and her son were too scared to leave their room most of the time and Aarathi would only go out to communal areas if she absolutely had to, such as when she needed to make food for her son.



Aarathi repeatedly asked her housing officer for help but did not receive a response. Aarathi got support from an advocate working for Hopscotch, who recognised that her human rights were at risk. Even though the refuge was not a public body, they were providing accommodation on behalf of the council, who had a duty to uphold Arthi's rights.

Aarathi's advocate contacted the housing officer and explained that she was concerned that Aarathi's and her son's experience in the refuge was potentially impacted on their Article 3 right not to be treated in an inhuman or degrading way.

Aarathi's advocate argued that Aarathi and her son's experience of aggression in the hostel and their fear of leaving their room showed that the impact of living in the refuge for such a long time was severe. Aarathi's advocate argued that their previous experience of domestic abuse made it particularly difficult for either Aarathi or her son to cope with the bullying from other residents.

Aarathi's advocate also discussed with the housing officer that if the distress experienced by Aarathi and her son did not meet the high threshold for inhuman and degrading treatment (Article 3) their right to private life under Article 8 was also at risk (which is particularly significant when there are children involved). She explained that Aarathi and her son were confined to their room, which impacted their physical and mental wellbeing. Article 8 is a non-absolute right, which means that any interference must be lawful, legitimate and proportionate. The council has the legal power to provide temporary housing under the Housing Act 1996 but must consider whether it is still suitable if someone has to stay there long-term. The refuge was only meant to be 3-month temporary accommodation, but Aarathi and her son were kept there for 18 months, and the conditions were causing significant distress. Aarathi's advocate recognised that this may not be proportionate.

After raising these issues, Aarathi was finally moved to new accommodation and is now settled in a permanent and safe home – something she had been longing for since she left her abusive relationship.

[You can find out more about this right here.](#)

Article 8: The right to private and family life, home and correspondence

This right is protected by Article 8 in the Human Rights Act. An important part of this right is making sure that people's choices are protected. This right is a non absolute right.

When might this right be relevant to my work?

Private life



If a person's mental or physical wellbeing is at risk.



If a person does not have a say about their own body or life (known as "autonomy"). This includes not being able to contribute to decisions about their or their children's lives e.g. receiving social work reports on the day of meetings without time to read and understand these.



If a person is not able to access the community.



If someone is interfering in a person's relationships with others.



If there is a big intrusion into a person's private information or data. For example, if they report an abusive message to the police and the police tell them they will download all the information in their phone.



If a public official discloses a person's confidential information.

Family life



When ongoing contact with family members has been stopped or restricted.

Home



This is not a right to home BUT a right to respect for the home a person already has. This might include a hospital ward or a care home.

Correspondence



If a person is not able to communicate with people e.g. via letter, email, social media, telephone etc



If a person is not able to have uncensored communication with others.

Can this right be restricted by a public official?

Yes. This is a non absolute right. But if a public official is deciding to restrict this right, they must go through a test. They must be able to show that the decision is:



Lawful: There is a law which allows public officials to take that action or decision.



Legitimate: There is a good reason e.g. public safety or protecting the rights of others.



Proportionate: They have thought about other things they could do, but there is no other way to protect the person involved or other people. It must be the least restrictive option.

You or the person you support can ask the public official about their decision or action and ask them to explain how it was lawful, legitimate and proportionate.

If you can think of a way to deal with this situation or decision that is less restrictive to the person you support then you can raise it with the public official as the original decision may not be proportionate.

What duties do public officials have about this right?



Respect

This means that public officials should only do things that restrict a person's right to private and family life when they need to.



Protect

This means that public officials should do things to protect a person and make sure they are involved in decisions that affect their lives and rights.



Fulfil

This means that when decisions are made about this right and a person must be treated fairly. When things go wrong they should be investigated and steps should be taken to try and stop the same thing happening again.

Real life examples and case studies




Case Study: Kamala

Kamala lived outside Swansea and was seeking asylum. The harm Kamala escaped left her with post-traumatic stress disorder (PTSD). To get to her medical appointments and other support services she had to travel to into the city centre.

Kamala was very anxious about her asylum application and was scared that she could be removed to her home country. Because of her PTSD, Kamala would have panic attacks whenever she was on a bus for more than 10 minutes.

She would have to get off the bus, calm herself down, and then wait for the next bus. Sometimes it would take her several hours to get to where she needed to be, and it was costing a lot of money as she would often have to pay for multiple bus journeys.



Kamala's social services caseworker recognised that the long journey was having a significant impact on her wellbeing. She spoke with the local council which was responsible for providing bus passes to people who needed them. She raised Kamala's right to respect for private life (Article 8, Human Rights Act). The local council agreed that the impact of the situation on Kamala's wellbeing was interfering with her right to respect for private life, and that they had a duty to respect and protect her rights. Kamala was given a bus pass so that she could travel to her appointments at her own pace and access the medical treatment she needed.

Case Study: Yolande

Yolande and her children were fleeing domestic violence, and her husband's attempts to track them down as they moved from town to town across the UK. Time and again the family would be uprooted, having to move on every time he discovered their whereabouts.

Eventually, they arrived in London, and were referred to social services in their borough. However, what could have been the family's first reprieve after months of uncertainty and fear turned into another ordeal in itself. Social workers told Yolande that the constant moving of her children meant she was an unfit parent and that she had made the family intentionally homeless. They said that they had no choice but to place her children in foster care.

A support worker helped Yolande to challenge social services' decision. Yolande said she thought the decision had failed to respect her own right to respect for family life, and the right to family life of her children.

Looking at the situation from a human rights perspective helped change the conversation. Social services reconsidered the issue, taking the family's human rights into account, and worked with Yolande and her children to find a suitable solution. They all agreed that the family would remain together, and that social services would help cover some of the essential costs of securing private rented accommodation. For Yolande and her children, being supported to find a new home was an essential step in rebuilding a new life in safety after a distressing and turbulent time.

[You can find out more about this right here.](#)



Article 14: The right not to be discriminated against

This right is protected by Article 14 in the Human Rights Act.

This is not a right to equality or a stand-alone right to be free from discrimination. It means when a person is using the Human Rights Act, they must be treated the same as everyone else.

You can think of it as a 'piggy-back' right. This means that when one of a person's other rights is at risk, they can also raise their right to non-discrimination if they think that is an issue. For example, if a doctor makes a decision about not treating a person's physical health problem because of their mental health issue, their right to wellbeing under Article 8 would be engaged and they can use non-discrimination arguments in their negotiations with the doctor/other public officials.

The Human Rights Act, unlike other discriminations laws such as the Equality Act, is open-ended (the Equality Act prohibits discrimination on 9 grounds, called protected characteristics). This means it can apply to a wider range of circumstances than other laws and can also include experiencing discrimination for combined reasons – such as being a young, black, disabled person. The Human Rights Act puts a legal duty on public bodies to respect and protect this right, whereas the Equality Act applies to public and private bodies, including shops and restaurants.

This right means when using the Human Rights Act, a person should be treated the same as everyone else. This includes:



If a person is being treated worse than other people in the same situation because of their race, age, religion, gender etc.



Failing to treat a person differently when they are in a very different situation to others, for example not providing a translator when a person really needs it.

When might this right be relevant to my work?

Discrimination might involve a person being treated less favourably than other people in the same situation based on something about them, such as a characteristic or status they have.

It could also involve a public official failing to treat a person differently when they are in a very different situation to others or applying rules to a person that have a worse impact on them.

Some examples of where the right to be free from discrimination might be at risk include:



A public official deciding not to treat a person's physical health problem because of their age or if they have mental health issues or they lack capacity to make certain decisions.



Making assumptions about where a person should live based on discriminatory attitudes about physical or mental health conditions they may have.



If a person is treated worse by a local authority because they are a family carer, as opposed to a non-family carer.



A school uniform policy which does not respect students' religious beliefs.



Policies on benefits which disadvantage survivors of domestic abuse.



Being denied the right to marry and have a family with someone purely because a person has a learning disability.



Bullying or harassment.

Can this right be restricted by a public official?

Yes, sometimes. Not all discrimination is against the law.

If a public official is treating a person differently for some reason, they must be able to show it can be objectively and reasonably justified. This means there must be a very good reason for the discrimination. For example, if a local authority running a women-only mental health facility would be discriminating on the basis of gender identity but could be justified as necessary to meet the needs of women patients.

You or the person you support can talk to a public official about their decision or action where you think discrimination is an issue, and ask them to tell you how it is objectively and reasonably justified.

What duties do public officials have about this right?



Respect

This means that public officials should not discriminate against a person, unless they can show that treating them differently can be objectively and reasonably justified.



Protect

This means that public officials have to protect the right to be free from discrimination. If they are aware, or they should have been aware, that a person is being discriminated against, they should take action to address this to protect this right.



Fulfil

This means that when things go wrong, they should be investigated and steps should be taken to try and stop the same thing happening again.



Real life examples and case studies

Case Study: Celine

Celine lives in London and has just got refugee status. She has to go to hospital for a couple of weeks.

Celine has been learning English for a while, but is still not very comfortable using English, especially with the doctors who are using complicated medical terms. A doctor comes to give her the results of several tests she has had. Celine doesn't really understand what he has told her. She asks for a translator but is told that her English is good enough and she doesn't need one.

Celine's friend visits her in hospital and tells her that she can use her human rights. They tell the hospital staff that this is impacting Celine's right to wellbeing and autonomy (part of the right to private and family life) as she cannot properly understand and talk about her treatment without a translator and that this is discrimination.

The hospital staff agree and change their policy so that a translator is always offered to people who do not have English as a first language.

[You can find out more about the right to be free from discrimination here.](#)

A flowchart to help you raise a human rights issue



Identify the issue

- What is the issue/decision?
- What happened, when and where?
- Who is affected and what is the impact on them?
- Has a public official made the decision or are they involved in the situation?

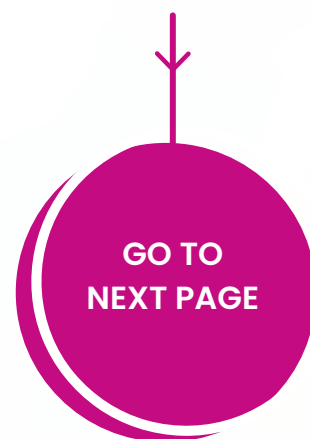


Identify if there are any human rights at risk and if so which ones

- There may just be one right involved or a number of rights. For each one think about:
- Is this an absolute or non absolute right?
 - If it is absolute right immediate action must be taken as this right should never be breached
 - If it is non absolute then think about if the restriction of this right is lawful, legitimate and proportionate.

If it's urgent...

If it's not urgent...





Raise the issue informally with the public official concerned: ask for a meeting

It can be helpful to raise the issue informally first. You could arrange a meeting with the public official involved or with their managers.

If they don't accept the complaint...

If they accept the complaint...



Raise the issue formally: write a letter

If you can not resolve the issue informally, you may want to write a letter of complaint. The service provider should give you a written reply setting out their response to your concerns.



If they don't accept the complaint...

If they accept the complaint...



Step up your action

- Strengthening the human rights arguments in a follow up letter
- Asking for an immediate meeting to discuss the response
- Warning that you may have to take more serious action
- Writing directly to the next layer of management

If they don't accept the complaint...





Take further action, such as:

- Following the internal complaints procedure
- Contacting the Ombudsman
- Contacting the CQC or other relevant regulators
- Seeking legal advice

Top Tips for raising human rights issues



Record the impact that the decision is having on your or the person you support.



Make sure you identify all the human rights involved. For each one, think about whether they are absolute or non absolute.



Think about the response you might get and plan ahead, can you suggest an alternative?



Is compromise possible- what's your minimum?



Don't be afraid to use human rights language.



Remember, if the situation is urgent, raise the issue immediately!



Remember, human rights are not a 'nice to have', they are the law!



Worked Example

Mary is a 24-year-old woman who has had a drug addiction since she was 19. She is estranged from her family and has been allocated a hostel room by the local council but had been sleeping on the streets and sofa-surfing. This has left Mary vulnerable to predators and she has experienced many violent physical and sexual assaults. She has also overdosed twice in the past 8 months, with both incidents resulting in hospital admissions.

Mary has a wide network of organisations working with her to try and safeguard and support her. In many meetings, hostel staff raised concerns that Mary is not using her room and ask other support staff to encourage her to sleep there. The hostel staff state that Mary left the room in a poor condition.

Mary's support worker from Hopscotch offers to help the hostel staff tidy the room. When she gets there, she is horrified to discover mice running freely around the room and mouse droppings all over the floor and Mary's bed. There is no food in the room, just a pile of clothes to one side. The support worker was very distressed when she realised what conditions she has unknowingly been asking Mary to sleep in.

Step 1: Identify the issue

Mary is an adult who has a history of drug dependency. She has been allocated a hostel room by the local authority but has not been using this room and has been sleeping on the streets or sofa surfing instead.

The impact on Mary of not feeling able to use her room is severe. She has experienced physical and sexual assaults whilst sleeping on the streets or in other people's homes and she has overdosed twice in the past 8 months, with both incidents resulting in hospital admission.

A number of organisations are trying to work with and support Mary. The hostel staff have asked these organisations to encourage Mary to sleep in her room. After her support worker visits Mary's hostel it becomes clear that Mary is not using her room because of a very serious mouse infestation.



Step 2: What human rights are involved?

Mary is being asked to sleep in unsanitary and unhealthy conditions. The impact of this is severe as Mary feels unable to sleep in her room and has experienced assaults when she has slept on the street or in other people's homes. Mary's support worker identifies that the condition of Mary's room and the impact this is having on her potentially risks her right to be free from inhuman and degrading treatment (**Article 3**). This can apply when someone has to sleep on the streets if there are exceptional personal factors (such as Mary's experiences of abuse and drug addiction).

Mary has overdosed twice in the past 2 months and has been admitted to hospital both times. It is not clear if this is linked to Mary's current housing issues but Mary's support worker recognises the potential risk to Mary's right to life (Article 2) should also be thought about. The right to life is not included in this guide but you can find out more about this right here.

Mary's support worker knows the right to life and the right to be free from inhuman and degrading treatment are both absolute rights and immediate action must be taken to address this.

In addition, Mary's support worker recognises that the right to private life (Article 8) is also at risk here because of the impact the condition of the room is having on Mary's physical and emotional wellbeing and access to privacy.

Step 3: Ask for an informal meeting

Mary's support worker discusses with her manager what their next steps should be as the hostel are not taking accountability for the mouse infestation and its impact on Mary.

They decide to request an urgent meeting to raise concerns that Mary's human rights are at risk. Even though the hostel is not a public body, they are providing accommodation on behalf of the council, who have a duty to uphold Mary's rights.

Because there are potential risks to Mary's absolute human rights, Mary's support worker and her manager decide to make a formal request for an urgent meeting.



Step 4: Raise the issue formally

Mary's support worker writes a formal letter requesting an urgent meeting to discuss her immediate concerns about the risks to Mary's human rights.

She sends this letter via email and also calls the hostel to notify them of her concerns and written correspondence. A sample of this letter is on the next page.

As a result of her letter and call, the hostel agree to a meeting with Mary and her support worker the next day. Mary's support worker explains that by asking Mary to sleep in unsanitary and unhealthy conditions, the hostel staff are not respecting her right to be free from inhuman and degrading treatment (Article 3) or her right to private life (Article 8).

Mary's support worker explains that Article 3 is an absolute right, which means it can never be lawfully taken away. Article 8 is a non-absolute right which means that any interference must be lawful, legitimate and proportionate. Because the hostel does not have a good reason for not dealing with the mouse issue and not doing so is having a severe impact on Mary's wellbeing, she questions whether the hostel's lack of action was legitimate or proportionate.

As a result of the meeting, and similar reports from other staff that support Mary, the hostel agrees to have the room professionally cleaned and to contact pest control. Mary starts to sleep in her room most days after this and her support team are able to communicate with her more easily.

Mary's and her support worker have agreed with the hostel staff that they will have a meeting in a few weeks time to review how things are for Mary.



Example Letter/Email

A. Caseworker
Hopscotch
London

London Hostel Team
10 Newton Street
Old town


Dear Mrs Bloggs,

I am contacting you in my role Ms X's support worker. I am writing to raise serious concerns about the condition of Ms X and the impact that this is having on both her safety and mental and physical wellbeing.

↪ **EXPLAIN who YOU are and YOUR relationship TO THE PERSON concerned**

As you are aware, Mary has a room in the hostel run by your organisation. Staff at the hostel have contacted me several times to say they are concerned that Ms X is not staying in this room. I recently visited Ms X at the hostel and when I saw her room it became evident as to why she feels unable to stay there. The room is infested with mice, there are mice running freely around the room and there are mouse droppings everywhere. Ms X has informed me that hostel staff have said that it is her responsibility to clean the room. The current condition of the room is unsanitary and not fit for someone to live in. Ms X is so distressed by the condition of her room that she chooses instead to sleep on the streets or sofa surf which is putting her at great risk and she has already experienced numerous assaults. As you know from your records, Ms X also has a drug dependency issue and during this time has overdosed and required hospital treatment on two separate occasions.

↪ **EXPLAIN the BACKGROUND and what has HAPPENED, INTRODUCE the IMPACT on the PERSON concerned.**



As a hostel providing accommodation on behalf of a local authority, you have a legal duty under the Human Rights Act to respect and protect Ms X's human rights. I am extremely concerned that the current condition of Ms X's room and the lack of action from hostel staff to address this issue is putting her right not to be treated in an inhuman or degrading way (Article 3 in the Human Rights Act) at risk. The assaults that Ms X has experienced when sleeping on the streets because her room is not fit for purpose show that the impact of the current situation is extremely serious. Ms X's history of drug dependency and overdose must also be considered when we are thinking about the impact that this situation is having on her. The mouse infestation is also interfering with Ms X's physical and mental wellbeing which is protected by her right to respect for private and family life (Article 8 in the Human Rights Act).

↪ **EXPLAIN they have a DUTY under the HUMAN RIGHTS ACT. EXPLAIN which RIGHTS have BEEN IMPACTED. YOU can back this UP with YOUR OWN EXPERTISE, if APPROPRIATE.**

The Human Rights Act means that any restriction of an absolute right, such as the right to be free from inhuman and degrading treatment is never lawful. Therefore, action must be taken immediately to resolve this issue to make sure that Ms X feels able to sleep in her room. Any restriction of a non-absolute right such as the right to wellbeing under private and family life, must be lawful, legitimate and proportionate. I am concerned that the decision to not address the mouse infestation to be neither legitimate (there is a not a good reason for restricting this right- for example public safety or protecting the rights of other people, including children or staff) nor is it proportionate. Given the impact this situation is having on Ms. X and her rights, it is not proportionate for her to be expected to sleep in this room or to resolve the matter herself. I therefore urgently request a meeting with you to discuss immediate next steps to safeguard Ms X's rights.

↪ **EXPLAIN why YOU think this right has BEEN VIOLATED and the IMPACT on the PERSON concerned. FIRST FOCUS on ABSOLUTE rights, THEN non-ABSOLUTE.**

I would be grateful if you could please respond to my letter and suggest a time for a meeting within the next two days as this is an urgent issue. I am sure that we can resolve this issue amicably, working with Ms. X to protect her rights.

↪ **Set OUT a SUITABLE TIME FRAME FOR NEXT STEPS.**

Yours sincerely,
A Caseworker



Example Letter/Email

A. Caseworker
Hopscotch
London

London Children and Families Social Work Team
10 Newton Street
Old town

Dear Mrs Bloggs,

I am contacting you on behalf of Ms C in my role as her advocate [k1] . I would like to request an meeting to discuss the recent decision by the Children and Families Social Work team to place Ms C's two children in foster care.

↪ **EXPLAIN who YOU are and YOUR relationship TO THE PERSON concerned**

As you are aware, Ms C and children were recently referred to your team after arriving in London. Ms C and her children are fleeing domestic abuse and her husband has made several attempts to track her down. The family have already moved from several towns across the UK to try to ensure their safety before now moving to London.

Mrs C and her family were referred to your team for assistance to access housing, schooling and wider support. In response to the referral your team concluded that Ms C's constant moving of her children meant that she was an unfit parent and that she had made the family intentionally homeless. It was decided that her children should be placed in foster care. Ms C is extremely distressed by this decision and the impact that this is having on her children.

↪ **EXPLAIN THE BACKGROUND and what HAS HAPPENED, INTRODUCE THE IMPACT ON THE PERSON concerned.**



As a public body you have a legal duty under the Human Rights Act to respect and protect Ms C's human rights and those of her children.

↪ **Explain they have a duty under the Human Rights Act.**

The decision to place Ms C's children in foster care interferes with her right to respect for family life and her children's right to respect for family life. The right to family life is protected under Article 8 of the Human Rights Act. Any restrictions of this right must be lawful, legitimate and proportionate.

↪ **Explain which right(s) you think have been impacted and why. Back this up with your own therapeutic expertise, if appropriate. First focus on absolute rights, then non-absolute.**

Ms C would like to request a meeting with you to review the decision to place her children in foster care. In particular, we would like to discuss the reason for your decision and to explore if there are more proportionate ways to secure a stable environment for Ms C's children that would have less of an impact on the whole family. We would like to review other options for supporting Ms C and her children to realise their right to family life such as exploring housing options and working with both Ms C and her children to find out what measures can be put in place to keep them together, safe and less likely to have to move yet again.

↪ **Explain what you would like to be done to resolve this issue.**

I would be grateful if you could please respond to my letter and suggest a time for a meeting within the next week as this issue is causing great distress for the whole family. I am sure that we can resolve this issue amicably, working with Ms. C and her children to protect their rights.

↪ **Set out a suitable time frame for next steps.**

Yours sincerely,
A Advocate

Where to get more information and support

BIHR

BIHR have a lot of information about the Human Rights Act on our website. In particular you might find the following of particular interest:

- [Information about all of the rights in the Human Rights Act](#)
- [BIHR Human Rights Info Hub](#)
- [BIHR Easy Read Human Rights Info Hub](#)
- [BIHR Know Your Human Rights online tool for women survivors of domestic abuse](#)
- [BIHR Know Your Human Rights online self advocacy tool for people with mental health or mental capacity issues and those that support them](#)

BIHR have a range of resources that you can download from our website [here](#).

Other Resources:

Citizens Advice Bureau

Citizens Advice provides advice in person, over the phone and via email and web chat

Women's Aid

Women's Aid provide information and support about domestic abuse

The Parliamentary and Health Service Ombudsman

The Parliamentary and Health Service Ombudsman looks into complaints that have not been resolved by the NHS in England and UK government departments and other UK public organisations.

Tel: 0345 015 4033

Mon – Thurs, 8.30am to 5pm, Fri, 8.30am to 12pm

The Local Government and Social Care Ombudsman

The Local Government and Social Care Ombudsman looks into complaints about councils all adult social care providers (including care homes and home care agencies) and some other organisations providing local public services.

Tel: 0300 061 0614

Mon – Fri 10am to 4pm

Care Quality Commission (CQC)

The Care Quality Commission is an independent organisation which makes sure health and social care services in England are providing a good service and are meeting national standard

Tel: 03000 616161

enquiries@cqc.org.uk

Law Centres Network

Law Centres provide free and independent legal advice to people who cannot afford a lawyer. The network does not provide legal advice itself, but can provide contact details for your nearest centre.

Tel: 020 3637 1330



Glossary

Public authority

Public authorities (sometimes known as public bodies) provide services by the government for the public e.g. the police, the NHS, social services. All public authorities have a legal duty under the Human Rights Act to respect, protect and fulfil human rights. Sometimes private organisations that are performing public functions are described as a 'hybrid public authority' and will also have this legal duty to respect, protect and fulfil human rights.

Public official

This is a person who employed by a public authority or for an organisation that is carrying out an act of public function (for example a housing association that has taken over social housing contracts) If you are a public official then you have a legal duty under the Human Rights Act to respect, protect and fulfil human rights.

Restrict human rights

This means limiting or interfering with someone's human rights. Absolute human rights can never be restricted. Non absolute rights can sometimes be restricted but this must always be lawful, legitimate and proportionate.

Breach human rights

This means taking away or not looking after someone's human rights. Absolute human rights can never lawfully be breached. Non absolute rights can sometimes be restricted but this must always be lawful, legitimate and proportionate.

Capacity

Capacity is about your everyday ability to make decisions about what happens to you. Public officials should assume that people do have capacity to make a decision, but if they are unsure because of someone's impairment of their mind or brain, the Mental Capacity Act sets out a legal test to assess this.

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hopscotch
WOMEN'S CENTRE

