

# Using Human Rights

A guide for people accessing Fair Justice Systems  
for Scotland Group's services



**FJSS GROUP**

Co-produced with

The British Institute  
of Human Rights 

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## **What are human rights?**


Human rights are universal, this means that they belong to everyone. We are all born with human rights and whilst they can be restricted in certain circumstances, they can never be taken away.


Human rights are for all of us, it doesn't matter who we are, what our job is, what our age or ethnicity is. We are human beings and it's important we know our rights and use them to advocate for positive change.

They are not gifts or rewards from the government, they are protected by law under the UK Human Rights Act, provisions in the Scotland Act and the European Convention on Human Rights. These laws mean that public bodies, those delivering public functions, have a legal duty to make sure that your rights are protected.

## **Human rights and universality**

The Human Rights Act says that all people should be treated with dignity, respect and without discrimination. However, in practice we know that not everyone has the same access to their human rights protections.






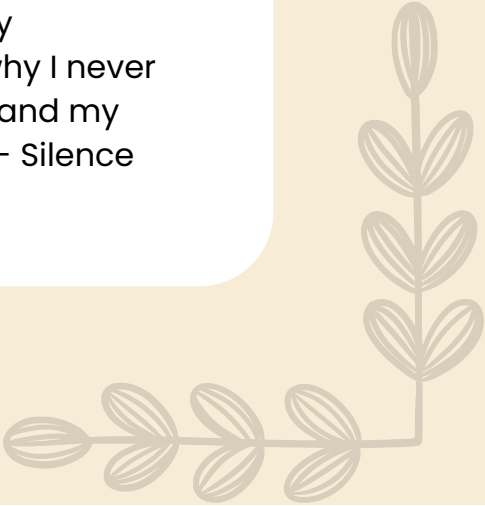
Around 250 – 300 people are supported each month by FJSS Group to access food support services. Of that number, 90% are students from the Black African community, these students are often on visas that do not give them any recourse to public funds and are struggling financially to make ends meet.

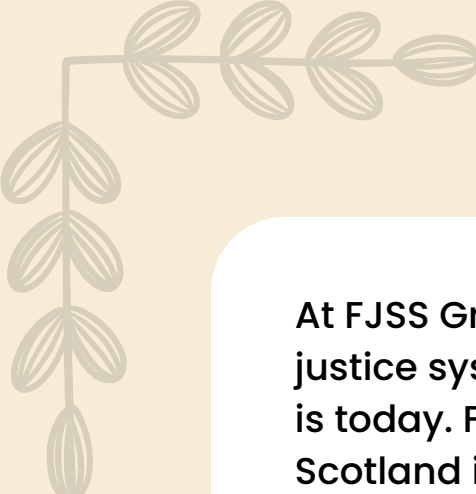
### **Fair Justice Systems for Scotland Group**

“For the period up to 31st October 2023, our organisation supported 12 students across five universities in Scotland. This is quite a high number and we have identified issues impacting Black and Minority Ethnic students – not just Black African students but also Asian and Arab students who do not speak English as a first language. The main issues were struggling with dissertations, theses and related academic assignments. They often failed after resits but due to lack of support and struggling with the English language. This resulted in students running out of time and having their visas expire before they could renew or take advantage of the post-study graduate visa.” – Fair Justice Systems for Scotland Group, 2023



“I was inspired to start FJSS Group as a direct result of the experience that I had when I was trying to join the legal profession in Scotland. I would submit my CV and applications, go for interviews, but I never got the opportunities I wanted. I looked at my qualifications and I was left with only one reason why I never got the opportunities; I am a Black African person, and my white peers were given preference ahead of me.” – Silence Chihuri, 2023





At FJSS Group we advocate for a racially inclusive justice system that reflects the Scottish society as it is today. For example, the legal profession in Scotland is predominantly white. Out of 13,000 members of the Law Society of Scotland, only 3% are from the Black community. Whilst gender diversity has progressed rapidly with 62% of the legal profession being women, the numbers are small for black female professionals with numbers in Scotland not on record.


## **British Institute of Human Rights**

“Working on this resource alongside FJSS Group as an advocate to support people accessing the service has been enlightening.

Whilst my work largely allows me to inform and amplify the voices of individuals and share knowledge of human rights law, after speaking to Silence and his team, I was inspired to provide creative literature for staff and the community to know and speak about their human rights in everyday practice.” – Charlotte Maguire, British Institute of Human Rights, 2023



At BIHR, we believe that everyone wants to live safe and well, knowing that their rights are supported by those in power. We believe our Human Rights Act is the tool that can achieve this, helping each of us live with equal dignity and respect. We work beyond the courts, collaborating with people and community groups like Fair Justice Systems for Scotland Group to use human rights advocacy to challenge those in public power to live up to their duties using human rights approaches.



At the heart of everything we do is the goal of enabling positive social change through the practical use of our Human Rights Act.

## What is the Human Rights Act?

The Human Rights Act is the main human rights protection in the UK. It is important because it places duties on public bodies to respect and protect rights in everything they do. This means that when interacting with public bodies, people can expect to have their rights protected and if they don't, they can challenge this.

## 16 rights in the Human Rights Act



The right to life



The right to be free from inhuman or degrading treatment or torture



The right to be free from slavery or forced labour



The right to liberty



The right to a fair trial



The right not to be punished for something that wasn't against the law when you did it



The right to respect for private and family life, home and correspondence



The right to freedom of thought, conscience and religion



The right to freedom of expression



The right to freedom of assembly and association



The right to marry and found a family



The right to be free from discrimination



The right to peaceful enjoyment of possessions



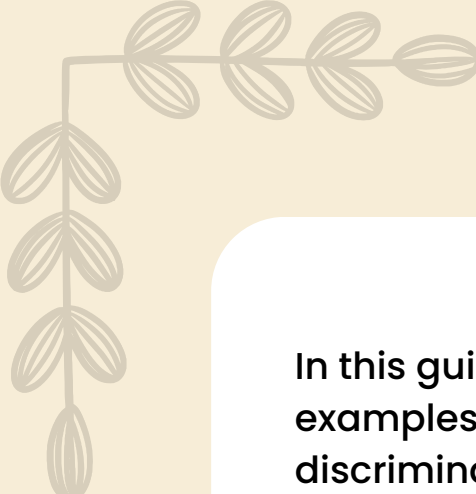
The right to education



The right to free elections



Abolition of the death penalty




In this guide we will provide information and examples of family and private life and racial discrimination which are the rights that came up in our codesign process reflective of people's lived experience who are supported by FJSS Group.

You can read a plain language or an Easy Read guide of each of the 16 rights and whether they are absolute or non-absolute on BIHR's website section, "What rights do I have?" here.

## **The Human Rights Act in Scotland**

The Human Rights Act (HRA) applies across the UK. The rights within the HRA are brought into UK law from European Convention on Human Rights and are interwoven into the Scotland Act 1998. The Scotland Act prevents Scottish Ministers from passing laws which may be incompatible with Convention rights, as set out in the HRA. If a court in Scotland finds a law to be incompatible with human rights, it can be disapplied, because such a law would be outside the powers delegated to those bodies ("ultra vires"). This is not the same for UK Parliament which is sovereign. The mechanisms in the HRA and its position in devolution arrangements are part of what makes it such an innovative, distinct piece of legislation. In Scotland, the HRA is a crucial building block for increased rights protections.





## **Who has legal duties under the Human Rights Act?**

Section 6 of our HRA puts a legal duty on all “public authorities” and their employees. There are two different types of “public authority” that must respect our human rights:

1. ‘Core’ public authorities: these are bodies typically seen as public, for example, local authorities, emergency services, NHS, Health and Social Care Partnerships, regulators, public education providers, and Government Departments, as well as courts and tribunals.
2. ‘Hybrid’ public authorities: these are other bodies (for example private companies and charities) who must only follow the HRA when they are doing things which are “of a public nature”. This means that they are doing something which would typically be done by a core public body, such as a private company running a prison.

