



Human Rights in Asylum Accommodation

**Migrants'
Rights
Network**

Co-produced with

The British Institute
of Human Rights 



Article 8

The Right to Family and Private Life, Home and Correspondence

The right to private and family life, home and correspondence is protected by Article 8 of the Human Rights Act. Each part of this right protects many different things.

Article 8 is a non-absolute right, this means it can be limited where it is lawful, legitimate, and proportionate to do so.

If you are in accommodation provided or funded by the government, this right will be particularly important. Article 8 covers a lot of different areas that may matter to you. This right has been unpacked in the table below:

Private Life

- Wellbeing – this is your physical and mental health.
- Community – this is your right to take part in your community.
- Relationships – this is about your right to form and maintain friendships.
- Autonomy – this is being able to have a say over where you are, how you are treated, and how you live your life.
- Confidentiality – this is about having your personal information kept private.

Family Life

- This includes the right to develop ordinary relationships.
- This right includes having ongoing contact with family.
- Receiving support for your family to work together and have your needs met through services.
- Family includes friends and partners.



Home

- This is not the right to have a home, it is a right to enjoy the home you are living in, free from interruption and intrusion without your permission.
- A home is anywhere you are living, including temporary accommodation, a hotel you have been placed in, or a hospital.

Correspondence

- Right to uncensored communication with others.
- Through a variety of mediums including letters and modern communication.



If you feel like you are being treated in a way where your rights under Article 8 are being limited, you have the right to speak up and challenge this treatment.



In real life: the ability to cook your own food

This real life example has been provided by Migrants' Rights Network

“Asylum seekers in Home Office accommodation had their kitchen cooking appliances disconnected without any notice, or reason for why they were being made inoperable. Residents have now been told they are not allowed to cook their own food or have their own appliances.

We were told that they could only take the issue forward if an individual within the accommodation raised the matter, however asylum seekers have been warned by management that if they complain there is a risk they could be moved to a different accommodation

The ability to cook food in this accommodation is vital for the dietary needs of residents with digestive ailments but importantly for those trying to remove the sense of isolation to build their own communities in these spaces- cooking and eating that food together is an important part of building that community while they wait in limbo for their asylum decisions.



Another factor in why residents focus on cooking food is because much of what is served to the residents by commissioned caterers is inedible for many. While we are aware that the food being served has the appropriate nutritional value, this does not mean it is palatable or appropriate to people's diets e.g., spicy food or it lacks high fibre."

How is the right to private, family life, home and correspondence relevant?

Knowing how an issue you're facing links to human rights law, can help you to advocate for change with those who have legal duties. This table will break down how human rights are relevant to real life scenarios, specifically in relation to the right to private, family life, home and correspondence:

Autonomy

Removing the ability for people in accommodation to be able to cook for themselves is a restriction on their ability to make and prepare their own meals.

Wellbeing

Having your ability to cook your own meals can have a serious effect on your wellbeing which can affect your right to a private life. Hotel asylum housing accommodation is often challenged because mealtimes are prepared external to the accommodation and often either not culturally appropriate or suitable for children.

Similarly, threatening to move you to another accommodation if you speak up can be very distressing and is a big restriction on your human rights.



Community

Removing the ability to cook with others could be affecting your right to privacy and family life as it prevents your ability to build communities and relationships whilst in accommodation.

Accommodation in areas of specific faith cultures or individuals.

Home

Having the ability to cook your own food removed is a restriction on the right to enjoy your home.

Peaceful enjoyment of your current home can be prevented by asylum housing changes in policy resulting in a short notice move to another part of the country. Asylum housing is deemed as a 'no choice basis' accommodation policy but the LLP test is a helpful indicator for caseworkers to use when deciding whether a challenge to a housing solicitor ought to be raised.

Asylum seekers receiving notice.

Finding local connections/ties to keep an individual.

As Article 8 is non-absolute, we can look at this scenario and think about whether it passes the three-stage test that public bodies must follow to restrict the right:



Lawful: There must be a law which allows public officials to take that action for example the mental health act.

To consider whether this scenario is lawful, we must ask whether there is a law that permits the restriction on cooking appliances and whether this law is being applied compatibility with the Human Rights Act There is no information about what law the Home Office are using, this is the first question we should ask. If there is legal basis for the removal of the appliances, we must check whether this is for a legitimate aim, is proportionate and make sure that the law isn't being applied in a discriminatory way.



Legitimate: There must be a good reason for limiting someone's rights such as the protection of a person or others from harm.

To decide whether this restriction passes the test, we must decide whether it pursues a legitimate aim. This means that it must be for good reason. It may be a legitimate aim here of protecting the safety and rights of others as it is for preventing fires but you can ask for this to be evidenced. If there is evidence of a legitimate aim, this doesn't mean it is lawful. It must also be proportionate.



Proportionate: The decision taken must be the least restrictive option available. 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.

To see whether the restriction is proportionate, that is, was it the least restrictive option possible, we should think about what else the accommodation managers could have done to prevent further fires that isn't as restrictive as turning off electricity or depriving people of their possessions. It would seem likely that there are other less restrictive steps the accommodation managers could have taken.



Remember: Public bodies have legal duties under the Human Rights Act. That means that if your human rights are being affected, you can challenge this with a public body. Public bodies must listen to your concerns and if your human rights are not being respected, they either need to take steps to stop this, or explain to you why the restriction is lawful, for a good reason, and proportionate.

If the manager of your accommodation is employed by the Home Office, this means they are a public body. Therefore, they have a duty to respect your human rights. If they are not taking your complaints seriously, you can seek legal advice, make a formal complaint, or go to the ombudsman.