

The Human Rights Act: A powerful tool for ensuring rights are made real in the UK.

BIHR's summary response to the Joint Committee on Human Rights' Call for Evidence.

The Government's Independent Human Rights



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The British Institute of Human Rights Summary Response

“ Whilst it is essential that this Act exists, I feel like there needs to be more accountability from the government or other places where it is applied. People may know of its existence but this does not always mean that they respect or uphold the Act correctly/without causing harm to individuals. ”

Quote from respondent to our survey, “The Human Rights Act and Me.”

At BIHR (British Institute for Human Rights), we see the value of the Human Rights Act (HRA) every day in our work with people interacting with services, community and advocacy groups and staff working in public services. The Human Rights Act is, in its current form, an incredibly powerful tool which has the power to create a culture of respect for human rights in the UK. Since the passing of the Human Rights Act, for over 20 years, we at BIHR have been supporting the operation of the Act with rights holders and duty bearers. Our experience shows there is still a long way to go until a culture of respect for human rights becomes a reality for all of us, here in the UK. Our submission makes it clear, however, that the route to making human rights real for everyone is not through more legislative review of our Human Rights Act but through human rights leadership, at all levels, ensuring that the Human Rights Act is understood and implemented every day, in every interaction a person has with public services.

Full response available [here](#):

Our expertise

The British Institute of Human Rights (BIHR) is a charity working in communities across the UK to enable positive change through the practical use of human rights law beyond the courts, sharing this evidence of change and people's lived experiences to inform legal and policy debates. We work to support people with the information they need to benefit from their rights; with community groups to advocate for social justice using human rights standards; and with staff across local and national public bodies and services to support them to make rights-respecting decisions. This enables us to call for the development of national law and policy which truly understands people's experiences of their human rights. Established in 1970, with a focus on supporting a culture of respect for human rights since the passing of the Human Rights Act in 1998, we work with over 2,000 people each year. Our submission, analysis and recommendations are directly informed by our organisation's unique expertise of human rights practice, and people's real-life experiences of the issues.

We welcome the opportunity to respond to this Inquiry and the Joint Committee on Human Rights' (JCHR or the Committee) decision to focus on the use of the HRA over the past 20 years beyond courtrooms and parliament.

We are concerned that the narrow focus of the Government's Independent Review means that not only is it inaccessible to the majority of people who have lived experience of the operation of the HRA, but it misses out any reflection of the Act's key aim, to create a culture of respect for human rights in the UK. Therefore, the wider focus of the Committee's inquiry is welcomed.

Our evidence

From the Independent Review's announcement¹ on 13 January 2021 until end February 2021, we engaged in extensive evidence gathering alongside partner organisations including the British Association of Social Workers (BASW), Learning Disability England, The Human Rights Consortium Scotland, All Wales People First, Equally Ours and [many more](#). This evidence, gathered from over 400 people UK wide, all of whom have lived experience of our Human Rights Act in its current form, informed [our short submission to this inquiry](#) submitted on 19 February 2021, as well as [our submission to the Independent Review](#) on 2 March 2021.

These are the individuals whose views should be central to any review of the operation of the Human Rights Act, and which now shape our longer response to this inquiry.

1. **People:** People accessing (or trying to) access public services, their family members and people who care about them.
2. **Advocacy and Community Groups:** Formal advocates (e.g., IMCA (Independent Mental Capacity Advocate), IMHA (Independent Mental Health Advocacy) etc.), self-advocates, and other community, campaigning, and advocacy groups.
3. **Staff:** People with legal duties to respect and protect rights. This includes those working in public services and in private, charitable, or voluntary bodies delivering public services.

Our findings

- 100% of people who responded to our research said that the Human Rights Act was important to them.
- 78% of people who responded to our research said the Human Rights Act is important to them as it helps raise concerns with public bodies/services.
- 88% of people who responded to our research are worried that the Independent Human Rights Act review may lead to less protection of rights.
- 74% of people who responded to our research think the Human Rights Act is important in helping them support people so their rights are respected.

¹ Independent Human Rights Act Review (IHRAR) Call for Evidence (2021)
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/962423/Call-for-Evidence.pdf

Our answers to the Committee's call for evidence

This submission brings together BIHR's expertise from over 20 years of supporting the operation of the Human Rights Act and our evidence gathered from people with lived experience of using the HRA. It is through this expertise and experience-led data gathering that we answer the questions posed by the Committee. We hope that our findings will inform any further work carried out by the JCHR alongside the work of the Independent Review.

- **The Human Rights Act in everyday ways has led to individuals being more able to enforce their human rights in the UK.** Our full submission makes clear that there is still a lot of work to be done to ensure human rights are made real for everyone, but that this will not be achieved through more legislative review. Our submission contains multiple examples of the Human Rights Act as a tool for advocacy and decision-making which supports individuals to enforce their human rights in the UK. Our research for the Review shows that 76% of people who responded have either used the Human Rights Act in their life or work to help change things for the better or know someone who has.
- How easy or difficult it is for different people to enforce their rights depends on a range of factors. Our research shows that some of the barriers to enforcing human rights include levels of awareness of human rights law for people, advocacy groups and public officials, equality and discrimination issues, resource issues within public services, and lack of human rights leadership nationally and locally. **None of our research points to the law itself creating any issues with how different people enforce their rights in practice.**
- **The operation of the Human Rights Act has made an incredible difference for public authorities.** Far from something which is seen as additional bureaucracy, our experience and evidence contained in our full submission shows that public officials consider the Human Rights Act a useful and practical tool for decision-making. During Covid-19, the Human Rights Act has offered a framework for decision-making for public officials which is absent in subordinate legislation, regulations, guidance and policy. Our research reveals that 63% of staff have used the Human Rights Act to help change decisions or policies so they can better support people.
- **The Human Rights Act contains mechanisms that respect the separation of powers between the government (executive), parliament (legislature) and the courts (judiciary).** The mechanisms within the Human Rights Act work are intended to ensure that Convention rights are enforceable here at home whilst maintaining the constitutional principles of the UK. Our full submission makes clear that any review into the operation of the HRA must give full consideration not just to the separation of powers in the UK but to the role of the HRA in devolved administrations.
- **The Human Rights Act strikes the right balance in the relationship between the domestic courts and the European Court of Human Rights.** Our full submission shows that this relationship is working well and there is no need to alter the relationship.

- Our full submission argues that the current provisions within the Human Rights Act relating to the actions of the UK (or its agents) overseas are appropriate. There is no need to change these provisions.

Our position

At BIHR, we echo the voices of the people we work with; and a very clear message is that Review of the Human Rights Act is **unnecessary**. The HRA is based on universally agreed principles, set down in international and regional laws, which exist to uphold each person's fundamental rights by placing limits and requirements on governments. Sadly, history, and people's everyday experiences, remind us of the need for human rights laws. The past year reinforces this all too starkly.

That is not to say the UK's protection of human rights is perfect; plainly it is not, and we see people's rights risked and breached far too regularly. The problem that needs addressing is not the HRA. The legal framework is not failing. As our full submission demonstrates, there is ample evidence of the law supporting people to be treated with equal dignity and respect. The HRA can be part of the solution to ensuring people are treated with dignity and respect, not the problem. When we strengthen the ability of public bodies to use the HRA and of people and communities to advocate for their rights, we see the difference a culture of respect for human rights can make.

The failure has been one of leadership, from successive UK governments² since the passing of the HRA, including investment in resources, education, practical implementation and monitoring to secure a culture of respect for human rights.

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We welcome the approach taken by the Joint Committee on Human Rights and we hope that our submission provides evidenced answers to each of the Committee's focus areas set out in the call for evidence. Do not hesitate to contact us for further examples of the operation of the HRA in practice or wider work alongside the Independent Review.

² This can be starkly compared to actions of some of the devolved governments focused on securing the HRA and bringing additional international human rights protections into the UK, which builds on our current law rather than questioning or undermining it.