

The Human Rights Act & The Cost-of-Living Crisis



Healthcare



Fair wages



Social Security



Standards of Living



Housing

The British Institute of Human Rights

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HUMAN RIGHTS

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As we face one of the most severe cost-of-living crises the UK has ever seen, it's more important than ever that people are supported to know and claim their rights. Equally, it's important that those in positions of public power are held accountable when they breach or fail to respect our human rights.

[Our Human Rights Act 1998](#) ("HRA") brings fundamental protections from the [European Convention on Human Rights](#) ("ECHR") into UK domestic law and puts a legal duty on public bodies to respect, protect and fulfil human rights. The Act can, and is, being used as a powerful tool to mitigate and challenge the actions, policies and decisions of state bodies across the UK every day.

Drawing on lived experience, this short guide will explain the relevance of the HRA during the cost-of-living crisis. It will show that repealing or reforming our HRA will remove one of the only mechanisms we have to challenge economic policies on a national level and their harmful and discriminatory impacts locally.

[You can read more about the UK Government's plans to replace our HRA with a 'British Bill of Rights' here.](#) As we write, Dominic Raab has been re-appointed [Justice Secretary and announced on Twitter](#) that we will see the return of the dangerous and discriminatory Bill of Rights in the "coming weeks." It is therefore more important than ever that we understand the power of our HRA and campaign to protect it. [You can read our CEO's call to action here.](#)



"As we enter a winter with people facing choices between heating or eating, the last thing we need is Government stripping away our most basic rights protections."

- Sanchita Hosali, CEO of British Institute of Human Rights

What do we mean when we say, “cost-of-living crisis”?

The [Institute for Government](#) explains that the cost-of-living crisis ‘refers to the fall in ‘real’ disposable incomes (that is, adjusted for inflation and after taxes and benefits) that the UK has experienced since late 2021. It is being caused predominantly by high inflation outstripping wage and benefit increases and has been further exacerbated by recent tax increases.’

Leaving the economic lingo aside, what the cost-of-living crisis means is that many people across the UK will have to choose between feeding themselves and heating their homes this Winter. Some will not be able to afford either.



While this crisis is affecting us all, it is having a disproportionate impact on single parent families and those with protected characteristics under the Equality Act 2010, including disabled people. You can [read more about protected characteristics and how they link to Article 14 of the ECHR here](#).

Disability Rights UK have shared that 25% of disabled people they surveyed in 2022 had on at least one occasion skipped meals or chosen not to heat their homes for financial reasons. [Citizen’s Advice has created a helpful dashboard with further statistics](#) exposing the disproportionate effects that the cost-of-living crisis is having on certain groups within our society.

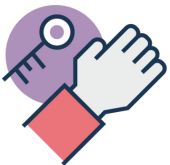
Cost of living crisis: how are our rights protected?

Viewing the cost-of-living crisis through a human rights lens allows for any talk of “them and us” to be dispelled. When we say human rights are universal what we mean is that we all deserve to have our basic needs met: we must all be able to live in dignity. The current crisis has exposed the Government’s failure to ensure these needs are met. We must now use our HRA as a tool to challenge this failure and to require that our rights be respected, protected, and fulfilled.

It is sometimes suggested that the 16 rights deriving from the European Convention on Human Rights which the HRA protects are purely ‘civil and political’ (used to mean the right to life, to liberty and to non-discrimination) rather than ‘economic, social or cultural’ (used to mean health, housing, social security and standard of living). This is a false characterisation.

It misunderstands the way our Human Rights Act can and is being used to protect people's rights in health, housing, benefits and standard of living every day across the UK. As the [European Court of Human Rights has itself noted](#), ['there is no water-tight division separating' these two types of rights](#).

Our HRA is a "living instrument": it is interpreted in line with societal developments. One of the main ways our HRA works is to protect us from the impact of decisions made by the public bodies. The HRA doesn't list all of the possible actions of public officials (this would be impossible) but rather protects us against the effects of the decisions of those with public power on us as individuals or communities. For example, the HRA protects our rights to:



- not be treated in an inhuman or degrading way ([Article 3, HRA/ECHR](#)). This could happen as a result of a decision about our healthcare, our housing or our benefits. Rather than being restricted to specific contexts or types of settings, the HRA enables us to challenge decisions by public bodies that risk treating us in this way, even if that is not the intention of the decision, it is the impact on people that matters.



- well-being which could, for example, be impacted by policies on benefit caps or what support carers are entitled to ([Article 8, HRA/ECHR](#)). Again, the HRA means that it is not about whether the specific risk to our wellbeing has been exactly spelt out, but that this risk exists because of the actions of a public body, this means it can be challenged.



- be free from discrimination ([Article 14, HRA/ECHR](#)), which allows us to challenge the disproportionate impact which the UK Government's economic policies are having on groups in society with protected or other characteristics (as noted above).

This guide provides the real-life stories of our Human Rights Act's role in protecting people's rights during the cost-of-living crisis. The HRA is a powerful tool in ensuring people are treated with dignity, respect and without discrimination. It protects our rights when accessing social security, housing, healthcare, helps us secure adequate standards of living, and fair wages. Any moves to replace our Human Rights Act by the UK Government must be resisted. We need our safety net, now more than ever.



Our HRA protects our rights to social security and welfare support

Our HRA enabled two carers and someone receiving care to successfully challenge the discriminatory impact of the benefit cap. One carer had been evicted from her home as she was unable to keep up with rent payments due to the cap and was no longer going to be able to provide her granddaughter with vital support. Another was very close to becoming destitute as a result of deductions to his housing benefit. The Court found the cap was in violation of all the claimants' right to enjoyment of possessions (Article 1, Protocol 1) and non-discrimination (Article 14). This was because the benefit cap did have some exemptions, but these were based on an unreasonably narrow definition of "household".



After this judgment, people in receipt of Carer's Allowance, the underlying entitlement to Carer's Allowance or a Carer Element within Universal Credit were made exempt from the benefit cap – a decision that has had a profound impact on many carers' lives.

While under our HRA there is no strike down power for primary legislation at Westminster, the HRA enables courts to strike down secondary legislation like the Benefit Cap Regulations if it does not respect human rights and is not required by an Act of Parliament. This power could potentially have a significant impact in the context of the cost-of-living crisis.



Our HRA protects our rights in housing

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. They were referred to Social Services in their borough, but 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 as it failed to respect her and her children's right to family life (Article 8).



Social Services reconsidered the issue, taking the family's human rights into account, and agreed the family would remain together, and that Social Services would help cover some of the essential costs of securing private rented accommodation.

(BIHR human rights practice example)



Our HRA protects our rights in securing adequate standards of living

In RR v SOS Work & Pensions, it was found that decision-makers should have disapplied the "bedroom tax" in the case of a disabled person that needed extra room for medical supplies because it breached the Human Rights Act right to private life (Article 8) and right to be free from discrimination (Article 14). This "tax" cuts housing welfare payments where a local authority classes a person/family as having a "spare" bedroom, and had wide-ranging reach, which failed to consider many of the reasons why someone may need an additional room. This ruling was hugely significant not just for RR but for the 130 couples with similar cases which were postponed until this case was decided.





Our HRA protects our rights in securing fair wages



Patience was brought to the UK as a domestic worker and nanny and forced to work for little or no money and was subject to physical and mental abuse. Her “employer” took away her passport. When Patience managed to escape with the help of a neighbour and reported her experiences to the police, they refused to take her allegations seriously and closed her case. Human rights organisation Liberty supported Patience to argue that the police had failed to protect Patience's Article 4 right to be free from slavery or forced labour.

While the Modern Slavery Act 2015 wasn't in place at the time, the police could have pursued Patience's “employer” for criminal abuse. The police reopened Patience's case and issued her with an apology, damages and a promise to improve training given to officers on cases like hers.



Our HRA protects our rights in a healthcare context

Nina, a young woman with mental health issues, was moved to a facility 200 miles away from home when she turned 18. This meant that some of her younger brothers were unable to visit her, and it was expensive and time consuming for her mum (who also has mental health issues) to visit. Nina was distressed by the lack of contact with her brothers and began to self-harm. As the hospital has a rule stating there will be no family visits within 48 hours of self-harm, this led to even less family access.

Donald, who was trained by the British Institute of Human Rights, along with Nina's social worker, wrote to the relevant Clinical Commissioning Group to challenge Nina's placement on the basis of her Article 8 right to respect for family life. Within a few days the CCG had sent a different doctor to assess Nina and within two weeks of the assessment Nina was transferred to a unit closer to home.



As the cost-of-living crisis is having such a serious impact on people's mental health and our ability to access services close to home, it is important to remember that we have the right to private and family life.

HRA imposing duties

So, the HRA enables us to rely on our rights as we face the cost-of-living crisis, but it also means that public authorities must take these rights into consideration when making decisions about our lives. Section 3 of the HRA imposes a duty on the UK Government and public bodies (including courts) to apply laws and policies in a way that upholds our rights as much as possible. This means current laws and policies, and any new ones introduced to help us through the cost-of-living crisis will therefore have to be interpreted with the human rights discussed above in mind. You can [read more about section 3 in our need to know here](#).



"Section 3 of our Human Rights Act is a key legal duty. It means that Government and the public bodies making decisions about our lives must apply other laws and policies in a way that upholds our rights so far as possible."

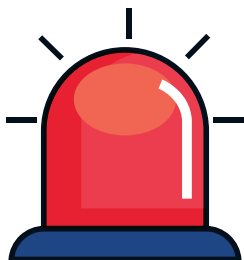
- BIHR, "Rights Removal Bill: Key Concerns, Removing the duty to apply laws to respect human rights ("Section 3 duty")"

Replacing our HRA is dangerous, especially during a cost-of-living crisis

Without the HRA carers in receipt of Carer's Allowance would not be exempt from the benefit cap, Yolande would not have received housing support, RR would have had to continue paying the bedroom tax, Patience would never have been able to hold the police to account, and Nina would not have been moved to a facility closer to her family. Without the HRA many of us affected by the current cost of living crisis will have no redress.

And yet, on 22nd of June 2022, the UK Government published a new Bill that would get rid of our Human Rights Act. They called it the Bill of Rights Bill – but it's exactly the opposite. It is a Rights Removal Bill which signifies the latest step in plans to reduce the responsibilities of government to respect, protect and fulfil the human rights which people rely on every day across the UK.

Although the Bill was “shelved” on 7th September 2022 following the appointment of Brandon Lewis as Justice Secretary, at the start of November, Dominic Raab announced his intentions to revive the Bill now that he has replaced Lewis.



If we lose our HRA, we will no longer be able to rely on its rights or benefit from the duties it places on public bodies to uphold our rights. To read more about how the proposed new Bill will affect our human rights if enacted [access our Rights Removal Bill Hub here](#).

Call to Action

The HRA is the primary tool through which we can ensure that the Government and public bodies respect, protect and fulfil all our rights, including economic, social and cultural rights.

As we enter a winter where people face the choice between heating or eating, the last thing we need is the Government stripping away our most basic rights protections. Yet the Government is intent on weakening these protections and limiting state accountability; we need your help to combat this assault on everyone’s rights.

Past complacency undoubtedly contributed to the creation of the environment which saw the emergence of the Rights Removal Bill – we must not let that happen again. We must continue to stand firm in protecting our Human Rights Act and amplifying the voices of those who rely on its provisions every day in order to safeguard their human rights, and the human rights of all of us.



What you can do



[Use our template letters to write to your MP](#) and tell them to take this opportunity to stand up for your human rights and protect our Human Rights Act.



Share your story of #WhyOurHumanRightsActMatters by posting on [social media](#) or emailing Helen at hwalden@bihr.org.uk with your story. You can [read other people's stories of why our Human Rights Act Matters to them.](#)



[Join our campaign list](#) to be the first to support our upcoming actions to show political leaders why our Human Rights Act matters.



[Read our Rights Removal Bill resources](#) to familiarise yourself with potential future avenues of attack the Government may take.



[Find out more about the HRA](#) and how you can use it to challenge cost-of living decisions that put people's rights at risk.

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.

