

# **Your Human Rights**

A guide for older people  
*Second edition*



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Please note that this guide is not legal advice. If you need advice please see the Useful contacts section for sources of information and advice. The information in this guide is correct as of July 2010. The law may have changed since then, so information in it may be incorrect or out of date.

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# Your Human Rights – a guide for older people

*Second edition*

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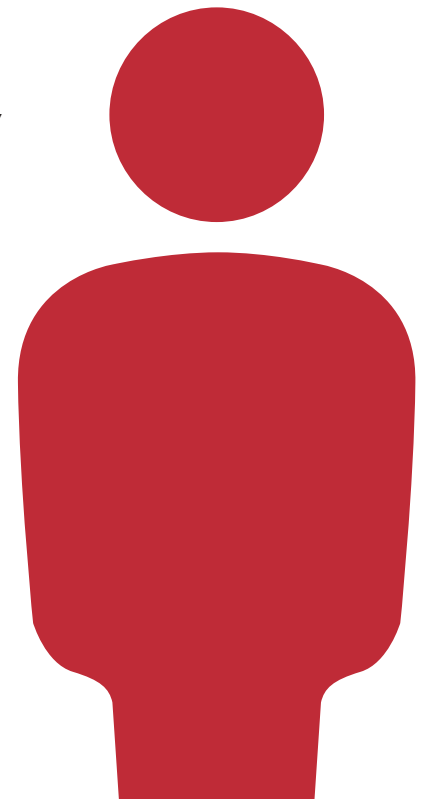
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## Introduction

Many situations experienced by older people involve human rights. However, there is little information available about human rights and how they relate to older people. Too often a person may not realise that they are able to do something about their situation, or even that there is something wrong with the way they are being treated. It is therefore vital that older people are able to access information about their human rights so they can challenge poor treatment and demand better services.

This guide provides practical information about human rights, and their relevance to older people. It is written directly for older people. The guide will also be useful for people working with older people or those wanting to learn more about the impact of human rights on older people. The first edition of the guide was extremely popular. We therefore decided to produce a second edition, taking into account comments and feedback on the first edition. The guide has been updated with new case studies and takes into account legislative changes since the first edition.

### Using this guide

This guide aims to give you an idea of situations that may involve your human rights. This will give you – or someone who can speak on your behalf – the knowledge to be able to recognise and challenge human rights abuses. Please note that this guide is not legal advice. If you think that someone is abusing your human rights, or you are unsure about anything in this guide, you should talk with an experienced adviser. Advice lines are listed in the Useful contacts section at the end of this guide.

The guide is designed so that you can either read it straight through, or pick areas that are most relevant for you. We have avoided using legal terms wherever possible, and have provided clear definitions where legal terms are used. We have used a number of examples to illustrate the information provided in the guide. Some of these are legal cases; others are examples of using human rights outside the courtroom. Legal cases can be identified by their case reference (for example *Pretty v United Kingdom*).

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Section I

# Introducing human rights



## Why are human rights relevant for me?

Human rights are the basic rights we all have simply because we are human. They belong to everyone, and provide an important means of protection for older people. Human rights place authorities in the UK – including the Government, hospitals and social services – under an obligation to treat you with **fairness, equality, dignity, respect and autonomy**.

Many people think that human rights are only significant for overseas countries, or that they are a complex legal topic. But human rights are relevant to many of the decisions people make and the situations people experience on a daily basis. They are not just about the law and taking cases to court. Very often you can resolve a problem that involves human rights by talking it through and reaching a solution, without needing to go to court.

To be able to understand how human rights can assist or protect you, it is important to have a basic knowledge of how human rights work in practice. This first section therefore gives a brief introduction to your human rights and how they are protected by law in the UK.

### Things you need to know about human rights

- they belong to everyone and are based on fundamental principles such as fairness, equality, dignity, respect and autonomy
- they are about how public authorities – including the Government, hospitals and social services – must treat you
- they prevent authorities from doing certain things to you, like treating you in a degrading way
- they also sometimes force authorities to take certain actions, like taking steps to protect your life
- their roots and origins lie deep in the histories of many different societies, civilisations and individuals
- they were first legally defined by international agreement after the horrors of the Second World War in the Universal Declaration of Human Rights
- since the Second World War there have been many different international human rights agreements, including the European Convention on Human Rights

## How are my human rights protected in the UK?

In the UK, your human rights are protected by the UK Human Rights Act, the European Convention on Human Rights and a range of international human rights treaties.

## What is the Human Rights Act?

The Human Rights Act came into force in the UK on 2 October 2000. The Act brings most of the rights contained in the European Convention on Human Rights into UK law. The European Convention on Human Rights, which UK lawyers and civil servants helped to draft, was agreed in 1950 by the Council of Europe. It contains fifteen basic rights, which are listed at the end of this guide.

### The Human Rights Act:

- places all public authorities in the UK, such as the NHS, local authorities and central government departments, under a duty to respect the rights it contains in everything that they do; and
- makes it possible for individuals to raise human rights concerns in UK courts, tribunals and complaints systems.

## Why is the Human Rights Act important for older people?

Human rights are not just about the law and taking cases to court. The Human Rights Act influences the way public services are delivered to older people. The Human Rights Act says that providers of public services, such as staff at residential homes and hospitals or carers in your own home, must make sure that they do not breach your human rights. Older people, and the organisations and individuals that support them, are increasingly using the Human Rights Act to challenge poor treatment and improve the provision of public services. There are a number of examples throughout this guide such as the one below, which demonstrate how human rights language and the Human Rights Act can be used to protect older people, both inside and outside the courtroom.

### **Case example**

An older woman was staying in hospital following a number of strokes. Against her wishes, the hospital sought to discharge her and move her into residential care on cost grounds. Her advocate was concerned that moving her into residential care would have a negative impact on her mental health. Her advocate used human rights language to argue that she should not be placed in residential care and that she should instead be allowed to return home in accordance with her wishes. As a result, funding was secured to support her care at home.

*Source: Independent Living Advocacy (Essex)*

### **What is a public authority?**

The term public authority includes all central and local Government agencies, as well as courts and tribunals. The National Health Service (NHS), social services departments and prisons are included and, more generally, any person or organisation 'whose functions are of a public nature'. The term also covers private organisations such as companies or charities, but only when carrying out a public function, for example a private hospital detaining someone under the Mental Health Act.

### **What about private and voluntary care homes?**

Following intensive pressure from BIHR, Age UK and other organisations, the Government confirmed in the Health and Social Care Act 2008 that private and voluntary sector organisations providing residential care services that are funded by local authorities are bound by the Human Rights Act. However, this does not currently cover organisations providing residential care services to individuals who are funding their own care, leaving some care home residents unprotected by the Human Rights Act. BIHR, Age UK and others are continuing to work to make sure that all older people have the protection of the Human Rights Act, whatever type of care home they might live in. The law in this area is quite complicated, so if you want to know more about this please contact one of the advice lines listed on pages 42–50.



## What happened before the Human Rights Act?

The UK signed up to the European Convention on Human Rights in 1951. This allowed individuals to take a case under the Convention to the European Court of Human Rights in Strasbourg. However, in practice this was a complex and lengthy process. The arrival of the Human Rights Act made human rights more accessible for people in the UK – it is generally quicker, cheaper and more practical to bring your case before the UK courts. If your case is not successful in the UK, you can still take your complaint to Strasbourg.

## What about international human rights laws?

This guide focuses on the rights contained in the Human Rights Act and the European Convention on Human Rights. However, it is important to know that the UK has also signed up to a series of international human rights treaties (also called Conventions or Covenants) agreed by the United Nations (UN). These treaties place legal obligations on the states that sign up to them.

### Key things to know about the UN human rights treaties:

- There are nine core UN human rights treaties, covering a range of issues and groups including torture, women and racial discrimination, as well as general treaties that protect everyone's rights
- There is currently no specific treaty for older people, although there have been some discussions about this at the UN
- The treaties cover a broader range of rights than the Human Rights Act and European Convention – including rights to health and housing
- The implementation of each treaty at a national level is monitored by a UN committee of experts
- The UK government has to submit regular reports for each treaty they have agreed to (usually every 4–5 years), which explain how the UK is implementing the treaty
- These reports are examined by the committees, who publish their concerns and recommendations

The UN human rights treaties are not directly part of UK law. This means that you cannot bring a case to the UK courts using one of these treaties. However, they can still be a very powerful tool to hold the government to account and influence national policy.

The UN has also produced the 'UN Principles for Older Persons' (1991). This document does not place any legal obligations on states, but it is an important and powerful statement of the human rights protection afforded to older people.

### **Can my human rights ever be limited or restricted?**

Some rights are so fundamental that they must never be limited or restricted in any way. These rights are known as **absolute rights**.

- For example, public authorities must never torture you or treat you in an inhuman or degrading way under any circumstances, not even during a war or national emergency.

However, the majority of rights are not absolute and can be limited or restricted in certain circumstances.

Some rights can only be limited in strictly defined circumstances, set out in the legal explanation of the right. These are known as **limited rights**.

- For example, public authorities may limit your right to liberty if you are convicted of a criminal offence and you are sent to prison, or if you are legally detained because you have mental health issues.

Some, but not all, rights may be restricted under more general conditions in order to protect the rights of others or the interests of the wider community. These rights are known as **qualified rights**.

- For example, the Government may restrict your right to freedom of expression if you are inciting racial hatred or if you are publishing lies about another person.

We will look at the different ways in which rights may be limited or restricted in more detail in the next section.

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Section 2

# Human rights and older people



You may have heard stories about abuse of older people in residential care homes or by their carers in their own homes, doctors refusing to give older people medical treatment solely because of their age, or residential care homes being closed at short notice without regard to the needs of the residents. You may even have direct experience of these kinds of situations.

However, you may not realise that these circumstances all involve human rights issues. The Human Rights Act is an important mechanism for protecting older people against various forms of ill treatment. This section gives practical information about the kinds of human rights issues which older people may be facing.

### **Which human rights are relevant for older people?**

All of the human rights protected by the European Convention and the Human Rights Act belong to and may be relevant for older people. A full list of the rights can be found at the end of the guide. However, this guide will concentrate on the three human rights that have been used most widely to protect older people:

- the right not to be tortured or treated in an inhuman or degrading way;
- the right to respect for private and family life, home and correspondence; and
- the right to life.

These three rights raise a range of issues that can be relevant for older people, which are discussed below. However, the relevance of human rights for older people is not limited to these issues. The Human Rights Act is still a relatively new law and has great potential to empower and protect older people in many areas of life.



## Your right not to be treated in an inhuman or degrading way

Article 3 of the European Convention on Human Rights says that no one shall be tortured or treated in an inhuman or degrading way. This right is an **absolute right** (see page 10). This means that you should not be tortured or treated in an inhuman or degrading way in any circumstances, as this right may never be breached, restricted or limited.

Article 3 is not just about torture. The ban on inhuman or degrading treatment can be very relevant for older people.

- inhuman treatment means treatment causing severe mental or physical harm
- degrading treatment means treatment that is grossly humiliating and undignified

Situations in which older people may experience inhuman or degrading treatment are considered below. However, only the most serious kinds of ill treatment are covered by this right. Whether the treatment is serious enough to be inhuman or degrading will always depend on the particular circumstances of your case, taking into account factors such as your age, whether you are male or female, your state of health, and the length of time you were subjected to the treatment.

To illustrate this, compare the difference between a frail, older person being refused anything to eat or drink for 24 hours with a young healthy person being refused anything to eat or drink for 24 hours. Neither situation is acceptable, but the frail, older person is likely to be more severely affected.

The treatment does not need to be deliberate – it is the impact it has on you that matters. For example if staff in a care home unintentionally leave residents in soiled bed sheets for long periods of time because they are understaffed, this may still amount to inhuman or degrading treatment.

At the core of this right is **human dignity**.

For older people, this right may be relevant in a number of situations:

### **Abuse or neglect**

Older people may suffer abuse or neglect in settings such as hospitals or residential care homes, or during home care. In some circumstances this may be challenged on the basis that it is inhuman or degrading treatment.

Situations that may involve inhuman or degrading treatment include:

- unchanged sheets
- neglect leading to bed sores
- leaving trays of food without helping you to eat if you are too frail to feed yourself
- excessive force used to restrain you
- your calls for help being routinely ignored
- washing or dressing you without regard to your dignity
- other forms of poor treatment

### **Case example**

Mrs S, aged 102, felt isolated, disrespected and neglected while she was in hospital. Despite being blind, her meals and drinks were left on a trolley – in most cases without even letting her know they were there. For the most part, staff also did not offer any assistance with eating or drinking. As a result, many of the meals were removed untouched. Mrs S also suffered a great indignity when she asked for a commode, but was told by a nurse that she could use her incontinence pad. This kind of treatment is unacceptable and could amount to inhuman or degrading treatment.

*Source: Age Concern: On the Right Track?, 2008*

**Unacceptable practices** such as routinely refusing to take you to the toilet, undressing you in view of others, or physical or verbal abuse, may be serious enough to be inhuman or degrading treatment. On each occasion this will depend on the particular circumstances of your case, including how severe the treatment is and the impact it has

had on you. If you are unsure about whether you have been treated in an inhuman or degrading way you can speak with an experienced adviser – advice lines are given in the Useful contacts section at the end of this guide.

### Case example

An 89 year old man was taken to hospital suffering from dehydration and constipation. His condition began to deteriorate. The hospital continued to administer painful treatment for his constipation, despite the fact that it caused him to constantly cry out in pain. On more than one occasion his family found him at visiting time, clearly in distress, with nothing covering him from his waist down. His children became increasingly distressed at the treatment of their father, but found the hospital to be unresponsive to their complaints. After 5 weeks in hospital the man died from pneumonia.

The family wrote to the chief executive of the hospital, with copies to the local MP and Age Concern, complaining about how their father had been treated. They pointed out that the hospital's treatment of their father could infringe his right not to be treated in an inhuman or degrading way. Sadly, this was too late for their father to receive more dignified treatment, but a detailed reply acknowledged many shortfalls, and stated that they would learn from this case.

*Source: Sally Blackden, Age Concern Slough and Berkshire East*

### Inadequate care

Inhuman or degrading treatment may also result from inadequate care. For example you may be assessed as needing assistance to wash and/or go to the toilet. If the authorities fail to provide you with this care, this may lead to an uncomfortable or undignified situation such as being left in your own faeces or urine for several hours. Depending on the circumstances, this may be inhuman or degrading treatment.

### Case example

Mr X, aged 77, was admitted to hospital with swollen, ulcerated legs. He had had a shortened left leg since childhood and also suffered from a painful right hip. He had been fitted with an artificial left leg. Before he was admitted he was able to move around his home with a zimmer frame.

Staff on the ward did not have enough time to help him put on his artificial leg. The ward did not have a standing hoist and he was therefore left in bed where he became doubly incontinent and developed a pressure sore on his bottom. He became unable to sit, stand or get on and off his bed. This failure to provide him with an adequate level of care and resulting indignity could be challenged as inhuman or degrading treatment. If staff had supported him to move more freely, the situation could have been avoided.

Eventually after 6 weeks he was moved to the rehabilitation ward. Staff there were horrified at his treatment, and quickly provided him with the support he needed to regain control of his life. After 3 weeks on this ward he was well enough to go home. He was able to get on and off his bed and move around with a zimmer frame.

*Source: Anonymous*

### Restraint

In some instances, the use of **restraint** – physical or otherwise – may also amount to inhuman or degrading treatment. Examples include tying you to a chair to prevent you from moving or continually giving you medication to keep you sedated because there is a lack of staff. However, restraint is not necessarily in itself a breach of human rights. Again, whether the treatment is serious enough to be inhuman or degrading will depend on the specific circumstances.



### Case example

An older woman on a hospital ward had been strapped into her wheelchair, and this was causing her a great deal of distress. A consultant queried this, and staff explained that they had fastened her into the wheelchair to stop her walking around, because they were worried she might fall over and hurt herself. The consultant told staff that while their concerns were understandable, strapping her into a wheelchair for long periods was an inappropriate response because her human rights had not been taken into account. She pointed out that this could be considered degrading treatment given the impact on the woman. Staff quickly agreed to unstrap her and, after she was assessed by a physiotherapist, they were encouraged to support her to improve her mobility.

*Source: BIHR: The Human Rights Act – Changing Lives, 2nd Edition 2008*

### Poor conditions

Extremely **poor conditions** in care homes, hospitals, housing or other settings, such as overcrowding, lack of ventilation, lack of privacy or inadequate sanitary facilities, could also amount to inhuman or degrading treatment.

### Case example

A 76 year old man lived in council-owned accommodation. He was the only resident in his block, as all other flats had been vacated for refurbishment. His flat was filthy and had no heating, no hot water and cardboard at windows, with no natural daylight. While the man was clearly unhappy with his accommodation, he did not feel able to complain. His advocate raised this situation with the housing officer. The housing officer said they hadn't done anything about it because he hadn't complained. Leaving someone in such squalid conditions could amount to inhuman or degrading treatment. If the man had maintained that he was happy in this accommodation and did not want to move, his right to respect for private life and home would need to be considered (see pages 21–27).

*Source: Age Concern Slough*

## **Failure to act by public authorities**

The Human Rights Act is not just about preventing public authorities from taking certain actions. The Human Rights Act also asks public authorities to take proactive steps to prevent breaches of human rights from happening in the first place. For example, this might involve making sure that you are provided with an appropriate and adequate level of care that is suitable for your needs. This could prevent a situation where inhuman or degrading treatment might occur from arising.

The duty to prevent breaches of human rights includes situations where the harm is caused by private individuals rather than staff or carers of a public authority. For example, if a public authority is aware that a relative or friend who is caring for you at home may be abusing you, they have a duty under the Human Rights Act to investigate or intervene. If you are subjected to inhuman and degrading treatment and public authorities are aware of it and fail to protect you, this failure to act may breach this right.

This also applies when there is evidence of abuse or neglect within a setting such as a hospital or residential home. Public authorities have a duty not to treat you in an inhuman or degrading way. But they also have a positive duty to take proactive steps to protect you from this kind of treatment even where it is not directly caused by their staff members, for example if it is caused by relatives visiting you in hospital. Public authorities must investigate where there is evidence that you have been treated in an inhuman or degrading way.



## **Your right to respect for your private and family life, home and correspondence**

Article 8 of the European Convention protects the right to respect for private and family life, home and correspondence. It also sets out, in general terms, circumstances when an interference (also known as a restriction) with this right is acceptable – in other words when an interference is justified.

This means that this right is not an absolute right, but a **qualified right** (see page 10). Your right to respect for your private and family life, home and correspondence may have to be interfered with in order to take account of the rights of other individuals and/or the wider community.

However, for any interference with this right to be justified, it must be lawful, necessary and **proportionate**. A proportionate response to a problem is one that is appropriate and not excessive in the circumstances.

### Explaining proportionality

Certain questions can be asked to help decide if an action is proportionate, such as whether alternative approaches to the problem were considered that were less drastic.

For example, suppose an older woman who is cared for at home by her daughter is forced to move into residential care because her daughter is no longer able to care for her alone. Depending on the circumstances this may not be proportionate if, for example, the authorities have not considered other less restrictive options, such as a care package which enables the woman to continue living at home.

Sometimes however public authorities will act in a proportionate way and an interference with your right will be justified. For example, suppose the authorities have clear evidence that the woman in the above case is being abused by her daughter. Placing the woman in residential care may be an appropriate response in the circumstances in order to protect her.

A straightforward way of thinking about proportionality is that authorities **must not use a sledgehammer to crack a nut**.

If public authorities cannot show that they have acted in a proportionate way when interfering with a right, then the restriction is not acceptable, and the right will have been breached.

In addition to public authorities not breaching your right to respect for your private and family life, home and correspondence by their own actions, they must also, in some

situations, take positive steps to make sure that your right is fulfilled. This may include providing extra resources, such as providing adequate support to enable you to remain living at home rather than move to a residential care home.

### **What is meant by family life?**

Family life is defined broadly to include close and personal ties of a family kind. It does not just cover blood relatives. Your right to respect for your family life includes being able to live together with your family and, where this is not possible, having regular contact.

Your right to respect for your family life will be relevant if you are separated from your partner and/or other family members, or if you are placed in a care home which is far from your family and this makes it very difficult for them to visit you. For example, if you need care while continuing to live at home with your partner, but the local authority says that they do not have the necessary resources to enable you to stay at home, this may interfere with your family life.

If public authorities do separate you from your partner, or place any other restrictions on your family life, they will need to be able to justify their decision. They will need to consider whether their actions are lawful, necessary and **proportionate**. If they are not, this will be a breach of your right to respect for your family life.

#### **Case example**

A husband and wife had lived together for over 65 years. She was blind and used her husband as 'her eyes'. They were separated after he fell ill and was moved into a residential care home. She asked to come with him but was told by the local authority that she did not fit the criteria. A public campaign launched by the family, supported by the media and various human rights experts and older people's organisations, argued that the local authority had breached the couple's right to respect for family life. The authority agreed to reverse its decision and offered the wife a subsidised place so that she could join her husband in the care home.

*Source: BIHR: The Human Rights Act – Changing Lives, 2nd Edition 2008*

## What is meant by private life?

Private life is also defined broadly. It means more than just 'privacy' and extends to include issues such as:

- being able to live your personal life as you choose;
- being able to establish relationships with others as you wish;
- your physical and mental well-being;
- being able to access medical treatment;
- having access to information about your own private life which might be in the possession of others; and
- having personal information which is part of your private life kept confidential.

## Private life: personal choices and dignity

### Case example

A residential care home for older people regularly woke all residents at 5am, because this fitted best with staff shift patterns. None of the residents were able to choose what time they would like to wake up. This could be challenged as a breach of the right to respect for private life.

*Source: Age UK Helpline*

Your right to respect for your private life includes a right to personal autonomy (making your own choices about your life) and human dignity. This is very **wide-ranging**, covering issues such as privacy, your relationships with other people, your life in the community, culture and language. It is relevant to the decisions you make about your life and the way you are treated. Issues that may be particularly relevant for older people include:

- **personal and sexual relationships:** this could be significant in a residential care setting where your ability to form or maintain relationships may be restricted. Policies

which restrict your ability to decide who you want to spend time with and how you spend your time may interfere with your private life.

- **cultural and other needs:** if you are in a hospital or a residential care home, those caring for you should respect your cultural needs such as religious practices or dietary requirements, or any other needs which may be part of your private life.
- **your physical and mental well-being:** decisions which affect your physical and/or mental well-being are likely to have a strong impact on your private life. This may arise if, for example, you need care but do not receive a proper care assessment, are provided with inadequate care or experience delays in receiving services following an assessment. Inadequate care arrangements can have a severe impact on your right to respect for private life, and in extreme cases, the right not to be treated in an inhuman or degrading way (see pages 13–18).
- **participating in community life:** your private life may be involved if you are unable to participate in community life or to access essential economic, social, cultural and recreational activities. For example if you attend a day care centre but are unable to go on their excursions because the centre does not attempt to accommodate your mobility or other support needs, this may interfere with your private life.
- **decisions about treatment:** as long as you have the capacity (see page 29) to make decisions for yourself, your right to make choices about your life includes choosing what treatment to accept or reject (although you may not be able to insist on a particular type of treatment). This does not apply to people who are compulsorily treated under the Mental Health Act. Please see BIHR's human rights and mental health guide for more information about compulsory treatment.

Public authorities should make sure that your needs and wishes are central to all decisions about your private life including your care. You should be supported as far as possible to make your own choices about how you live your life. If public authorities interfere with your private life in any way they need to have a legitimate reason for doing so. They cannot justify their decisions solely on the basis of a lack of resources, although

they may take financial considerations into account. Any actions they take must be lawful, necessary and **proportionate** – they must not be excessive in the circumstances.

### Case example

An NHS nursing home had a practice of routinely placing residents in special ‘tilt-back’ wheelchairs, regardless of their mobility needs. As a consequence, residents who were able to walk unaided were stopped from doing so. This had a severe impact on their ability to make choices about everyday activities, as well as their capacity to feed themselves and use the bathroom. A consultant pointed out to staff that their failure to consider the different mobility needs of individual residents was contrary to human rights principles. She drew particular attention to the right to respect for private life and the right not to be treated in an inhuman or degrading way. The practice was stopped as a result. Residents who could walk were no longer put in the chairs and were encouraged to walk around.

*Source: BIHR: The Human Rights Act – Changing Lives, 2nd Edition 2008*

### Private life: privacy concerning your body

Another very important aspect of your private life which can have a strong impact on your dignity is who sees or touches your body. Your privacy and dignity should be properly considered when you are being washed, dressed or cared for generally. Situations that may interfere with your right to respect for your private life include:

- changing you or leaving you without clothes in front of others;
- a member of the opposite sex washing or undressing you if you have requested that this does not occur;
- making you go to the toilet in front of others; and
- forcing you to stay in a mixed sex environment if you are particularly distressed by this.

### Case example

An older woman was left completely naked on a mixed ward by workers who were training her to dress herself as part of a rehabilitation programme. This kind of situation could be challenged as a breach of the right to respect for private life.

Any action taken by public authorities that interferes with your private life in any way must be lawful, necessary and **proportionate**. It must not be excessive in the circumstances.

You may have noticed that some of these situations could be seen as **inhuman or degrading treatment**. If a situation that has an impact on your private life is particularly serious – for example if you are severely distressed by being undressed by a member of the opposite sex because you have been sexually abused in the past, or for religious reasons – this may also amount to inhuman or degrading treatment, depending on the particular circumstances.

Where this is the case, public authorities will not be able to justify their actions by pointing to, for example, short staffing or a lack of resources, because your right not to be treated in an inhuman or degrading way is **absolute** (see page 10).

### Private life: access to your personal information

Information about you and your life is part of your private life. This includes your medical and financial records, and information about any treatment you are given. Whether sharing such private information with others without your permission amounts to a breach of your right to respect for private life will depend on the circumstances of your case. There must be a proper reason for disclosing the information, such as preventing a crime or protecting your own or someone else's health. This reason must be lawful, necessary and **proportionate**.

You should have access to information about you that is held by public authorities. Public authorities should only withhold information if there is a legitimate reason for this, such as if giving you the information could cause significant harm to your or someone else's health or safety. Again, this reason must be lawful, necessary and **proportionate**.



**Case example**

A man wanted access to his personal file held by the local authority. He had been in care since a young age and wanted to find out about his past. The local authority refused. The European Court of Human Rights found that this breached his right to respect for his private life. The Court stated that people should have access to information about themselves unless there is a specific justification for withholding the information.

*Case reference: Gaskin v UK (1999)*

**Private life: treatment and resources**

Not being able to access medical treatment and other services that you need may affect your physical and/or mental welfare, and may therefore have a strong impact on your private life. However, the courts have been very clear in saying that your right to respect for your private life does not automatically give you a specific right to treatment. Some treatment or services may require substantial resources and also may have little chance of success and/or may cause you considerable distress. The courts are careful not to place an unreasonable burden on public authorities. It is therefore generally up to public authorities such as the NHS to decide whether to give you treatment or services where they are not under a legal duty to provide them.

In some circumstances, however, public authorities will be under a legal duty to provide you with medical care or other services. Where there is a duty to provide you with medical care or services, a delay in providing this could breach your right to respect for your private life, especially where too much delay has a serious impact on your health.

In addition, the courts have recognised that decisions to refuse treatment or services may have serious implications for the right to respect for private life. Therefore, public authorities cannot simply decide to withhold treatment without any justification. They need to consider each case carefully, and while they can take resources into account, they cannot justify their decisions solely on the basis of a lack of resources. The stronger the impact a

decision not to treat you has on your human rights, the greater the need for public authorities to be able to justify their decision.

In particular public authorities cannot refuse you medical treatment just because of your age. This would be discriminatory and would very likely be a breach of your human rights.

### **Case example**

Help the Aged (now Age UK) received a call from an older woman who was discharged from hospital without a proper assessment. When she got home, she found that she could not use the toilet as she needed rails to push herself up. She contacted the occupational therapist, who said she would have to wait at least two months and could use incontinence pads in the meantime. She was not incontinent. She was upset by the indignity and felt suicidal. This kind of situation could be challenged as a breach of the right to respect for private life, and may also amount to inhuman and degrading treatment.

*Source: SeniorLine, Help the Aged in 'Rights at Risk – Older People and Human Rights', 2005*

### **What is meant by my right to respect for my home?**

Your right to respect for your home is not a right to housing, but a right to respect for the home you already have. Your home may be a setting such as a hospital or residential home if you have been living there for a significant period of time. If public authorities decide to move you from your home or to close a hospital or residential home that you have been living in without taking your needs into account, this may interfere with your right to respect for your home. Home closures may also affect your right to respect for your private life, since moving you is likely to have a serious impact on your way of life, and may mean you lose the company of friends among staff and residents.

### Case example

A local authority in Plymouth was considering closing a residential care home for the elderly, for financial reasons. The residents brought a case against the authority claiming that the closure of the home would be a breach of their human rights including their right to respect for private life, family life and home. They argued that they had a reasonable expectation that the home would be their home for life. The panel deciding their case agreed and the home was not closed. The panel said that people's age should not be used as a justification for restricting their rights.

*Case reference: R (on the application of Cowl and others) v Plymouth City Council (2001)*

Your right to respect for your home may also apply if you would prefer to be cared for in your own home rather than be forced to move into residential care (as well as involving your right to respect for your family life if this means you are going to be separated from your family – see page 20).

Any decisions to close a residential home or hospital, or to move you from your home, will need to be justified as being lawful, necessary and **proportionate**.

In some cases it may be found that the decision to close a care home is proportionate. However, at the very least, your own needs and views, and those of each individual resident, must be taken into account in the decision-making process. Suitable alternative accommodation should be identified for you.



## Your right to life

Article 2 of the European Convention on Human Rights protects the right to life. This right has two aspects to it. Public authorities must:

- **not take away your life**, except in a few very limited circumstances. These circumstances are lawful action taken to defend someone from violence, to arrest someone, to prevent someone who is lawfully detained from escaping, or to suppress a riot. Any action taken must use no more force than is absolutely necessary.
- **take reasonable steps to protect your life**. For example there should be adequate laws in place to protect you from others who might want to take away your life.

The duty to protect life does not mean that public authorities such as the NHS must always do everything they can to save life whatever the circumstances. In some situations, a public authority may argue that a person should not face painful and intrusive treatment that will prolong their life, but not improve its quality in the opinion of the public authority. The courts have accepted that in some instances the suffering involved in the treatment should be balanced against respect for preserving life.

### Do Not Resuscitate orders (DNRs)

Sometimes doctors may believe that keeping an already very ill person alive would only inflict more suffering, as recovery is impossible or very unlikely. In these circumstances, doctors may consider placing what is known as a **'Do Not Resuscitate' order (DNR)** on a person's file. In these circumstances, medical staff will not attempt to revive the person if, for example, their heart fails.

However, a DNR should not be placed on your medical records without your consent or knowledge, nor should an institution have a policy saying that DNR orders can be placed on the files of anyone over a certain age.

These kinds of situations have serious implications for the right to life and can be challenged. You and your family should be consulted, and DNR orders should only

be made after very careful consideration of the facts of your individual case. Doctors should not make assumptions about your quality of life. Once a DNR has been placed on your file it should be regularly reviewed so that it can be lifted if your circumstances change.

### Case example

An older woman is admitted to hospital with a chest infection. Medical staff place a ‘Do Not Resuscitate’ order on her file, because they consider that as an older person, she has a low quality of life which should not be prolonged. They have not consulted with her or any of her family members. This kind of situation could be challenged as a breach of the right to life.

If you are an adult with the **capacity** to make decisions for yourself and you ask for a DNR to be put on your medical records, this will not be a breach of your right to life.

### What does capacity mean?

If you are unable to make decisions for yourself about a particular issue, for example about whether or not you want a certain treatment, this means that you lack capacity in relation to this decision. The law uses a test to decide whether or not you have capacity. This will look at whether you are able to understand, remember and believe information about your options, weigh up the pros and cons of your available choices, and make a decision based on these factors.

## Refusal of treatment

If you are an adult with the **capacity** to make decisions for yourself, your decisions about whether or not to accept treatment should be respected, even if not being treated will lead to your death. However, if you do decide to accept treatment, you may not be able to insist on a particular type of treatment (see treatment and resources on pages 25–26 and 32).

Your right to respect for your private life gives you the right to make your own **choices** in this situation (see page 21). The only exception is if you are being compulsorily treated under the Mental Health Act. For more information about compulsory treatment please see our Human Rights Guide for people living with mental health problems.

If you ask for your treatment to be withdrawn, and this leads to your death, this is known as **passive euthanasia**. Passive euthanasia is lawful in the UK and does not breach the right to life.

### **Active euthanasia**

The practice of actively assisting a terminally ill patient to die is known as **active euthanasia**. This is currently unlawful in the UK.

#### **Case example**

Diane Pretty had motor neurone disease, with no hope of recovery. She wanted to be in control of when and how she died. However, she was paralysed from the neck down and therefore had lost the physical ability to commit suicide. She wanted her husband to help her commit suicide. However, under UK law he would be prosecuted for the offence of assisting a suicide. She argued in court that the right to life entitled her to choose whether or not to go on living. However, the European Court of Human Rights found that this was not the case. The right to life does not extend to the right to die.

*Case reference: Pretty v United Kingdom (2002)*

A woman called Diane Pretty (see example on this page) argued before the courts that the right to life should extend to a right to die and that active euthanasia should therefore be allowed in her situation. However, the European Court of Human Rights disagreed and said that the right to life did not confer a right to die.

There is currently widespread debate in the UK regarding active euthanasia. Active euthanasia is not in itself a breach of the right to life, and may in the future become lawful in the UK.

### What about those who cannot decide for themselves?

If you do not have the **capacity** (see page 29) to make decisions for yourself about your medical treatment, and you are facing painful and intrusive treatment to prolong your life, a balance needs to be made between the benefit and the harm of the treatment. A very high level of pain, discomfort or indignity must be reached before the duty to keep you alive is overridden.

It is essential that assumptions are not made about your quality of life in this situation. The circumstances of each individual case should be considered carefully.

If you are in a ‘permanent vegetative state’ this means you are in a permanent and irreversible state of unconsciousness. If this is the case, your treatment may be withdrawn after very careful consideration, leading to your death. The courts have said that this is not a breach of the right to life. There is no absolute obligation to continue to provide life saving treatment if the treatment would be futile.

### Advance directives

An **advance directive** (sometimes called a living will) is a written statement that you do not wish to receive certain medical treatment in the event that you lose the **capacity** (see page 29) to consent to or make informed choices about your treatment in the future. Doctors must comply with these wishes in most circumstances. To be valid an advance directive must meet certain conditions – please consult an experienced adviser if you would like to make an advance directive. Advice lines are given in the Useful contacts section at the end of this guide.

## Treatment and resources

The right to life does not include a right to life-sustaining treatment in all circumstances. However your right to life must be taken into account in decisions about whether to provide you with life-sustaining treatment.

Since the Human Rights Act came into effect, decisions about whether to provide or refuse treatment are looked at more closely. Public authorities should have rational policies making sure that their resources are distributed fairly. Decisions about providing treatment must be justifiable. Human rights arguments may become relevant when such decisions seem to be unfair. The stronger the impact a decision not to treat you has on your human rights, the greater the need for public authorities to be able to justify their decision.

Decisions about treatment are also relevant to your right to respect for your private life – see pages 25–26.

## Malnutrition and dehydration

If staff do not take adequate steps to ensure that you have had enough to eat or drink while in hospital or residential care, this could have fatal consequences and may breach the right to life.

### Case example

A hospital patient desperate for a drink of water had to telephone the switchboard of the hospital he was being treated in to beg to see a doctor. He said that nurses were refusing to give him any water because he had accidentally knocked over the first cup of water he had been given. But when the doctor arrived he was turned away by the ward nurse, who said he was over-reacting and threatened to confiscate his phone. The man died eight hours later. His condition had not initially been life-threatening, and an investigation concluded that had it not been for the failings of the ward nurse he would have survived. This kind of situation could breach the right to life.

*Source: Bexley Times*



## Inappropriate medication

There has been evidence of sedatives or anti-psychotic drugs being over-used to control the behaviour of people with dementia. Anti-psychotic drugs can increase the risk of strokes for older people with dementia, so this practice risks breaching the right to life. Inappropriate use of medication in this way is also likely to raise issues under the right to respect for private life (see pages 21–26), given the possible negative side effects such as slurred speech, not being able to recognise people and not being able to walk.

### Case example

An older man was living in a residential care home. His family noticed that he had become very drowsy and unresponsive. They queried his medication with the care home, but they said that he was on a very low dosage. He began refusing to eat or drink anything, and was admitted to hospital with severe dehydration. The doctor at the hospital wondered if he had been given too much medication, and used a drug which reverses the effect of an overdose. Within 24 hours of having this injection he was sitting up in bed. They established that he had been given three times more medication than had been stated by the care home. Sadly the man died a few days later. A police and social services investigation was initiated. This kind of situation could be challenged as a breach of the right to life.

*Source: Age UK Helpline*

## Inquests

The right to life may place public authorities under a positive duty to carry out **inquests** into deaths in suspicious circumstances. Examples may include where life saving treatment has been withheld, or if there have been suspicious deaths at a residential home and there is strong evidence to suggest there may have been abuse or neglect. Public authorities are under an obligation to protect your life, and if they fail to properly investigate these deaths, this could be a breach of the right to life.

The right to life also places public authorities under a duty to make sure that **families are involved** in the inquest process. They should have access to information they need in order to find out what happened to their family members.



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Section 3

## **Practical advice and information**



This guide aims to help you understand what your rights are, and to recognise situations in which your rights, or those of someone you know, have been breached. This section gives practical advice about what you can do next if you think this has happened or is happening.

## Talking about it

- talk to somebody you can trust
- there are many support groups or advice lines you can talk to
- remember not every problem will be a human rights issue

The first step in dealing with a human rights issue is to talk to someone about it. This might sound like an obvious step; however many people often feel isolated or unable to speak about their situation, feeling scared of the consequences, or that nothing will change if they do tell someone about it.

Talk to someone whom you feel able to confide in – a close friend or relative, a support group, or one of the organisations listed in the Useful contacts section below. It is generally a good idea to seek advice from an experienced adviser before taking action. This should help you understand more clearly what kinds of issues are involved. It could be that your situation, while distressing, does not involve human rights concerns. However, there may be a way of dealing with the problem using other routes.

## Taking action

Sometimes situations can be resolved directly with the person or organisation involved. You (or someone who can speak on your behalf) may be able to do this in a less formal way by speaking directly with those involved and/or writing a letter (see **raising the issue initially**).

If you are unable to resolve your situation in this way, all providers of public services are required by law to have a formal procedure for you to complain through (see **complaints procedures**).

However it may be that the situation can only be resolved by a court. Taking a case to court can be a lengthy and expensive process, and therefore it is best to avoid court proceedings where possible. However, there are time limits for legal proceedings (see **taking your case to court**) and therefore if it seems unlikely that the situation will be resolved directly with the person or organisation involved you should seek legal advice as soon as possible.

## I. Raising the issue initially

- sometimes human rights issues can be resolved quickly by communicating with those involved, without going through any formal procedures
- try to seek advice before raising the problem directly with the person(s) involved
- somebody you can trust may be able to speak up about your problem for you

If you feel you can, you or someone who can **advocate** for you should raise the problem directly with the person or public authority that you feel has breached your rights, either by speaking to them or writing them a letter explaining the issue and mentioning that you think you have a complaint on human rights grounds. An advocate will be able to provide you with support and help you get your views across.

### What is an advocate?

An advocate is someone who can represent and defend your views, needs, wishes, worries and rights if you do not feel able to do this yourself. Advocates can also help you to participate in and make decisions. They are wholly independent – they will represent you without taking a view about your best interests. They are not to be confused with legal advocates who are people with specialist legal knowledge and training, such as lawyers. Legal advocates represent people in formal settings such as courts or tribunals.

You can find out more about advocates by calling any of the advice lines for older people listed in the Useful contacts section.

While this may be the simplest way to solve the problem, you should make sure you seek advice before doing this. Sometimes raising the issue directly may place you in a more vulnerable position, as the person(s) concerned may not react well to your complaint. If you have any worries that raising the issue may make things worse for you, you should consider approaching the problem more formally either through a complaints procedure, or – if the complaint fails or the matter is really urgent – by taking your case to court (see below for more details of these options).

If you do decide to raise the problem directly this will hopefully start a negotiation process towards resolving the issue. Public authorities (for a definition of public authorities see page 8) have a legal duty to respect your rights, so if they are failing to do so they have to listen and respond to you.

## 2. Using complaints procedures

- all registered providers of public services are required by law to have a procedure for you to complain about their service
- if your situation cannot be resolved in this way there are other organisations that you can make a complaint to without having to go to court
- it does not cost anything to make a complaint either through a complaints procedure or through a complaints organisation

Sometimes pointing out the human rights implications of a situation may not change things. The person or organisation concerned may refuse to listen to you, or may disagree that there is a problem. Alternatively, you may decide that the situation is best approached in a more formal way.

Before attempting to take your case to court it is important to try to go through the formal complaints procedure of the public authority. All registered service providers are required by law to have a complaints procedure, setting out how people who use services or those acting on their behalf can complain about the service.

If your situation remains unresolved after having gone through the complaints procedure of the public authority, you can register your complaint with an organisation such as an Ombudsman. Details of complaints organisations are given in the Useful contacts section below.

Another option is to write a letter to your **MP or locally elected councillor**, who may be able to take the issue up for you. For details of how to contact your MP or councillor, please see the Useful contacts section.

### 3. Taking your case to court

As mentioned previously, taking a case to court can be a lengthy process, and can be expensive if you do not qualify for legal aid (see below). It is therefore best to avoid court proceedings where possible. However, in some cases public authorities will not react appropriately to your complaint, and the only way to resolve the problem may be by taking legal action.

If you think legal action may be the only solution then you should seek legal advice as soon as possible, as your claims have to be made quickly. While exceptions can sometimes be made, you usually have to bring a case within one year of the incident occurring.

#### Seeking legal advice

- you may be able to receive free legal advice from a local law centre, Citizens Advice Bureau or an independent advice centre, or they can put you in touch with a suitable solicitor or charity that is able to provide advice
- the local authority's information office at your nearest town hall will give you details of local legal agencies, or you can look on the internet
- you can find out the details of local solicitors and advice agencies through either Community Legal Advice or the Law Society
- details of these and other sources of legal advice are given in the Useful contacts section



You may be able to receive **free legal aid** from a solicitor if you qualify financially. The Community Legal Advice website (listed in the Useful contacts section) has a 'legal aid calculator' which you can use to help establish whether you qualify for legal aid. When making an appointment with a solicitor, check with them to see whether you are eligible for free advice or, if not, how much they will charge for an initial interview. You should also check which areas the solicitor specialises in, as some solicitors may not have experience in human rights law.

Your next action will depend on the legal advice you receive. Human rights cases are heard in ordinary UK courts, and your legal adviser will recommend the best procedure for your situation. If the case needs to be resolved by a court, you will need to be represented by a solicitor. The solicitor will advise you on whether you would qualify for a full legal aid certificate to cover the costs of representation. If your case is successful, depending on the procedure you go through, you may be awarded damages, and/or an order may be made to prevent the public authority breaching your human rights. If your case is unsuccessful it may be possible to appeal.

If your case goes all the way through the UK court system without success, your last option will be to take your case to the **European Court of Human Rights** in Strasbourg, France (see page 9). They will not hear your case unless it has gone through all possible UK courts, and you need to apply within 6 months of the final decision of the UK courts.

Proceedings before the European Court are free, but it does not grant legal aid to pay for a lawyer to draft your initial complaint. If the Court decides to accept your case you may be able to receive free legal help if you cannot afford to pay for a lawyer. If you are unsure about any of this you can seek advice from one of the organisations in the Useful contacts section below.

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Section 4

## **Useful contacts**



## This section provides details of:

1. Human rights advice lines pages 42–43
2. Seeking legal advice/finding a lawyer pages 44–45
3. Making a complaint pages 45–47
4. Help with making a complaint pages 47–48
5. Finding an advocate page 48
6. Contacting your local MP or Councillor pages 48–49
7. Advice lines and websites for older people pages 49–50
8. Useful websites on human rights/legal issues page 51

### 1. Human rights advice lines

In England, Scotland and Wales, the Equality and Human Rights Commission, a statutory organisation with responsibility for promoting awareness of human rights, provides a free advice line on human rights issues. In England and Wales, Liberty, a human rights campaigns charity, also provides a free advice line. In Northern Ireland, advice is available from the Northern Ireland Human Rights Commission. These advice lines are a good starting point if you are looking for advice on a particular human rights issue.

#### Equality and Human Rights Commission [www.equalityhumanrights.com](http://www.equalityhumanrights.com)

The Equality and Human Rights Commission provides free information and guidance on discrimination and human rights issues via their helpline and website.

##### England

**Telephone:** 0845 604 6610

**Textphone:** 0845 604 6620

**Fax:** 0845 604 6630

##### Scotland

**Telephone:** 0845 604 5510

**Textphone:** 0845 604 5520

**Fax:** 0845 604 5530

##### Wales

**Telephone:** 0845 604 8810

**Textphone:** 0845 604 8820

**Fax:** 0845 604 8830

All lines are open Monday to Friday, from 9am – 5pm. Calls are charged at local costs if made from a BT landline.

In Northern Ireland, the **Northern Ireland Human Rights Commission** ([www.nihrc.org](http://www.nihrc.org)) can give general advice on the scope of the Human Rights Act and from time to time runs educational seminars to train people in how to use the Act. The Commission also has the power to support people who wish to take a human rights issue to court, but because of its limited resources it has to apply its criteria very strictly when deciding which cases to support.

**Telephone:** 028 9024 3987

**Textphone:** 028 9024 9066

There is also a separate **Scottish Human Rights Commission** ([www.scottishhumanrights.com](http://www.scottishhumanrights.com)) that works to promote and protect the human rights of people in Scotland. They do not run a helpline – individuals in Scotland seeking human rights advice should contact the Equality and Human Rights Commission on the number above.

### **Liberty**

Liberty's Public Advice Service is aimed at members of the public and voluntary organisations who want advice on human rights issues that affect them. Liberty can only advise in England and Wales.

You are encouraged to first visit Liberty's Your Rights website ([www.yourrights.org.uk](http://www.yourrights.org.uk)) to see if the information you need is available online.

If the information you require is not on their website, you can submit a written query online or by post, using a request form, available here: [www.yourrights.org.uk/get-advice/public-advice-intro.html](http://www.yourrights.org.uk/get-advice/public-advice-intro.html).

Alternatively you can call their advice line on **0845 123 2307** during the following hours:

Monday and Thursday: 6.30–8.30pm

Wednesday: 12.30–2.30pm

## 2. Seeking legal advice/finding a lawyer

The organisations below either provide free initial legal advice or can help you find a lawyer.

### **Advice UK [www.adviceuk.org.uk](http://www.adviceuk.org.uk)**

A membership organisation of independent advice centres. They do not give out advice themselves but their website has a directory of advice centres.

**Telephone:** 020 7469 5700

**Email:** [mail@adviceuk.org.uk](mailto:mail@adviceuk.org.uk)

### **Citizens Advice [www.citizensadvice.org.uk](http://www.citizensadvice.org.uk) (England and Wales)**

### **Citizens Advice Scotland [www.cas.org.uk](http://www.cas.org.uk)**

### **Citizens Advice Northern Ireland [www.citizensadvice.co.uk](http://www.citizensadvice.co.uk)**

Provides free, independent and confidential legal advice, and can help you find a solicitor. To receive advice, contact your local Citizens Advice Bureau, which you can find by visiting the Citizens Advice website or contacting your local authority's information office at your nearest town hall. They also have a separate website giving advice on a range of topics including human rights.

**Telephone:** 020 7833 2181 (no advice is available on this line, but they will be able to give you details of your local Citizens Advice Bureau that can give you advice)

**Advice website:** [www.adviceguide.org.uk](http://www.adviceguide.org.uk)

### **Community Legal Advice [www.communitylegaladvice.org.uk](http://www.communitylegaladvice.org.uk)**

Has an online directory providing details of solicitors, advice agencies and information providers across England and Wales. They also have a helpline giving free initial legal help and advice for people in England and Wales on benefits, tax credits, debt, education, housing and employment problems.

**Helpline:** 0845 345 4 345

### **Law Centres Federation [www.lawcentres.org.uk](http://www.lawcentres.org.uk)**

The coordinating body for Law Centres. Law Centres provide a free and independent professional legal service to people who live or work in their catchment areas. The Federation does not itself provide legal advice, but can provide details of your nearest law centre.

**Telephone:** 020 7842 0720

**Email:** [info@lawcentres.org.uk](mailto:info@lawcentres.org.uk)

### **The Law Society of England and Wales [www.lawsociety.org.uk](http://www.lawsociety.org.uk)**

### **The Law Society of Scotland [www.lawscot.org.uk](http://www.lawscot.org.uk)**

### **The Law Society of Northern Ireland [www.lawsoc-ni.org](http://www.lawsoc-ni.org)**

The regulatory and representative bodies for solicitors in England and Wales, Scotland and Northern Ireland respectively. Each of their websites has an online directory of law firms and solicitors. They do not provide legal advice.

### **Rights of Women [www.rightsofwomen.org.uk](http://www.rightsofwomen.org.uk)**

A voluntary organisation dedicated to women's rights. They have an advice line providing free confidential legal advice to women. They only advise in English on the law as it applies in England and Wales.

**Advice line:** 020 7251 6577

**Textphone:** 020 7490 2562

(Tuesday, Wednesday and Thursday: 2–4pm and 7–9pm; Friday: 12–2pm)

In addition to calling any of the above organisations, if you feel you have a potential claim you could also directly call any other local advice centre or reputable lawyer.

## **3. Making a complaint**

If you would like to make a formal complaint about a public authority, your first step should be to complain to the organisation involved via their complaints procedure. However, if the situation remains unresolved following your complaint, one of the

organisations listed below may be able to deal with your complaint. The complaints bodies listed here do not charge to investigate your complaint. However, they will only investigate your complaint if they believe that it may be valid.

### **The Local Government Ombudsman [www.lgo.org.uk](http://www.lgo.org.uk)**

Investigates complaints against local authorities and certain other bodies in England. They investigate complaints about most council matters including social care, housing and education. You must give the council concerned an opportunity to deal with the complaint against it first. Details of how to make a complaint can be found on the website, or you can call their advice line.

**Advice line:** 0845 602 1983 or 0300 061 0614

You can also text 'call back' to 07624 804 299

(Weekdays 8.30am – 5pm)

### **Parliamentary and Health Service Ombudsman [www.ombudsman.org.uk](http://www.ombudsman.org.uk)**

The Ombudsman can look into complaints about a service provided by a government department and their agencies, and the NHS in England. The Ombudsman also provides a complaint handling service for victims of crime in England or Wales. Their website contains detailed information about how to make a complaint.

**Complaints helpline:** 0845 015 4033

**Email:** [phso.enquiries@ombudsman.org.uk](mailto:phso.enquiries@ombudsman.org.uk)

### **Scottish Public Services Ombudsman [www.spsso.org.uk](http://www.spsso.org.uk)**

The Scottish Public Services Ombudsman is the final stage for complaints about organisations providing public services in Scotland. They deal with complaints about councils, the National Health Service, housing associations, the Scottish Government and its agencies and departments, colleges and universities and most Scottish public bodies. They normally consider complaints only after they have been through the formal complaints process of the organisation concerned. You can then bring a complaint to them by visiting their office, calling or texting them, writing to them, or filling out their online complaint form.

**Telephone:** 0800 377 7330

**Textphone:** 0790 049 4372

**Email:** ask@spsso.org.uk

**Address:** SPSO, Freepost EH641, Edinburgh EH3 0BR

### **Public Services Ombudsman for Wales [www.ombudsman-wales.org.uk](http://www.ombudsman-wales.org.uk)**

The Public Service Ombudsman for Wales looks into complaints made by or on behalf of people who have suffered because of unsatisfactory treatment or service by the NHS and other public services in Wales. The Public Service Ombudsman for Wales is completely independent of the NHS and the government. The services of the Public Service Ombudsman for Wales are free.

**Telephone:** 01656 641 150

**Email:** ask@ombudsman-wales.org.uk

### **Northern Ireland Ombudsman [www.ni-ombudsman.org.uk](http://www.ni-ombudsman.org.uk)**

The Northern Ireland Ombudsman deals with complaints from people who believe they have suffered injustice as a result of maladministration by government departments and public bodies in Northern Ireland, including all local councils, education and library boards, health and social services boards and trusts.

The simplest way to complain is to complete a complaint form on their website. Alternatively you can write a letter of complaint to:

The Ombudsman, Freepost BEL 1478, Belfast BT1 6BR.

## **4. Help with making a complaint**

If you would like support to make a complaint, the following organisations may be able to help. Alternatively you could try calling one of the advice lines specifically for older people, listed below.



### **Patient Advice and Liaison Services (PALS) [www.pals.nhs.uk](http://www.pals.nhs.uk)**

There is a PALS in every NHS trust. They can provide further information and discuss options with you about how your complaint can be resolved. Some complaints can be taken up by PALS on your behalf. You can find your local PALS through the website, or via [www.nhs.uk](http://www.nhs.uk).

### **Independent Complaints Advocacy Service (ICAS)**

ICAS is a free, confidential and independent service which can help you make a formal complaint about NHS services and has offices across the country. Find out more, including contact details, at [www.carersfederation.co.uk/what-we-do/icas/](http://www.carersfederation.co.uk/what-we-do/icas/).

### **The Patients Association [www.patients-association.com](http://www.patients-association.com)**

This is a national healthcare charity that highlights the concerns and needs of patients. They provide advice, health news, signposting to further information and general advice.

**Helpline:** 0845 608 4455 (Weekdays, 10am – 4pm)

**Email:** [helpline@patients-association.com](mailto:helpline@patients-association.com)

## **5. Finding an advocate**

An advocate is someone who can represent and defend your views, needs, wishes, worries and rights if you do not feel able to do this yourself.

**Action for Advocacy** has a searchable online database of advocacy services in England and Wales, available at [www.actionforadvocacy.org.uk](http://www.actionforadvocacy.org.uk).

Alternatively, you can call the Advocacy finder helpline on **08451 22 86 33**.

## **6. Contacting your MP or councillor**

You can find contact details for your local MP or councillor on the web at [www.writetothem.com](http://www.writetothem.com).

You can also find out how to contact your MP through the House of Commons Information Office:

**Telephone:** 020 7219 4272  
**Email:** [hcinfo@parliament.uk](mailto:hcinfo@parliament.uk)

## **7. Advice lines and websites for older people**

### **Action on Elder Abuse [www.elderabuse.org.uk](http://www.elderabuse.org.uk)**

An organisation that aims to prevent the abuse of older people. Runs a confidential helpline for anyone concerned in any way about the abuse of older people.

**Helpline:**

UK: 0808 808 8141                      Republic of Ireland: 1 800 940 010

**Address:** Action on Elder Abuse, PO Box 60001, Streatham SW16 9BY

**Email:** [enquiries@elderabuse.org.uk](mailto:enquiries@elderabuse.org.uk)

### **Age UK [www.ageuk.org.uk](http://www.ageuk.org.uk)**

Age UK came into being in April 2010 when Age Concern England and Help the Aged joined forces. Age UK works to improve later life for everyone by providing life-enhancing services and vital support. Age UK's advice line provides information or advice for older people on anything from health to housing.

**Advice line:** 0800 169 6565

(Lines are open daily between 8am and 7pm)

**Email:** [contact@ageuk.org.uk](mailto:contact@ageuk.org.uk)

### **The Alzheimer's Society [www.alzheimers.org.uk](http://www.alzheimers.org.uk)**

A care and research charity for people with dementia, their families and carers. They have a helpline for carers and a comprehensive website.

**Helpline:** 0845 300 0336

(Weekdays 8.30am – 6.30pm)

**Address:** Devon House, 58 St Katharine's Way, London E1W 1JX

**Email:** [enquiries@alzheimers.org.uk](mailto:enquiries@alzheimers.org.uk)

**Counsel and Care [www.counselandcare.org.uk](http://www.counselandcare.org.uk)**

A charity giving advice and information to older people, employers and service providers on care homes, community care and housing with care.

**Helpline:** 0845 300 7585

(Monday to Friday, 10am – 4pm except Wednesdays: 10am – 1pm)

**Address:** Twyman House, 16 Bonny Street, London NW1 9PG

**Email:** [advice@counselandcare.org.uk](mailto:advice@counselandcare.org.uk)

**DIAL UK [www.dialuk.info](http://www.dialuk.info)**

DIAL UK is a national organisation for a network of approximately 120 local disability information and advice services run by and for disabled people. DIAL information and advice services are based throughout the UK and can provide information and advice to older disabled people (and others) on all aspects of living with a disability. You can find contact details for your local DIAL via their website. If you do not have access to the internet contact DIAL UK on 01302 310 123.

**The Relatives and Residents Association [www.relres.org](http://www.relres.org)**

An organisation with the aim of improving quality of life for older people in care. Their helpline offers information and support to all those involved with long term care.

**Helpline:** 020 7359 8136 (Weekdays 9.30am – 4.30pm)

**Address:** 24 The Ivories, 6–18 Northampton Street, London N1 2HY

**Email:** [info@relres.org](mailto:info@relres.org)

**Care Directions [www.caredirections.co.uk](http://www.caredirections.co.uk)**

A website providing a guide to the care and rights of the elderly in the UK, aiming to empower people with the information they need to make informed choices.

**Housingcare.org [www.housingcare.org](http://www.housingcare.org)**

A website which aims to help older people make decisions about where to live, and any support or care that they need.

## **8. Useful websites on human rights/legal issues**

### **Advice Now [www.advicenow.org.uk](http://www.advicenow.org.uk)**

Website providing accurate, up-to-date information on rights and legal issues.

### **The Aire Centre – Advice on Individual Rights in Europe [www.airecentre.org](http://www.airecentre.org)**

Provides information and advice on international human rights law.

### **Amnesty International [www.amnesty.org](http://www.amnesty.org)**

Amnesty International is a worldwide movement of people who campaign for internationally recognised human rights for all, working to improve human rights through campaigning and international solidarity. Their website provides a range of information on international human rights issues.

### **British Institute of Human Rights (BIHR) [www.bihhr.org.uk](http://www.bihhr.org.uk)**

BIHR is an independent charity with a passion for bringing human rights to life for everyone in the UK. Their website contains a range of information and resources on human rights. They also provide human rights training and consultancy – please visit their website or contact BIHR (contact details on back page) for more information.

### **Council of Europe [www.coe.int](http://www.coe.int)**

International organisation which has the defense of human rights as one of its central aims. The home page of the European Court of Human Rights can also be found here.

### **Justice [www.justice.org.uk](http://www.justice.org.uk)**

An independent legal human rights organisation that aims to promote human rights, influence law and practice and improve the system of justice.

### **The Office of the UN High Commissioner for Human Rights (OHCHR) [www.ohchr.org](http://www.ohchr.org)**

The OHCHR is the principal United Nations office mandated to promote and protect human rights for all. OHCHR leads global human rights efforts and speaks out objectively in the face of human rights violations worldwide. Their website provides a wide range of information on the international human rights system.

## The British Institute of Human Rights

The British Institute of Human Rights (BIHR) is an independent charity which raises awareness and understanding about the importance of human rights for everyone in the UK. A major part of our work is providing training and consultancy on human rights to voluntary and community and public sector organisations working on various issues and with different groups including older people. This gives us an insight into the kinds of human rights issues experienced by older people and how the use of human rights language, principles and legislation can make a practical difference to their lives.

Many of the organisations we train have requested practical and accessible information on human rights written directly for older people. This guide is our attempt to fulfil this need.

## The Older People and Human Rights Project

The Older People and Human Rights Project is a 3-year project (September 2008 – September 2011) which is a partnership between Age UK and the British Institute of Human Rights. It is funded by Comic Relief. Working through four local Age Concerns, the project aims to empower disadvantaged older people to use human rights principles and standards to influence the improvement of local public services, particularly in the areas of health and social care, through the delivery of awareness-raising, consultations, information, training and support.

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# The rights contained in the European Convention on Human Rights include:

- Article 2: the right to life
- Article 3: the right not to be tortured or treated in an inhuman or degrading way
- Article 4: the right to be free from slavery or forced labour
- Article 5: the right to liberty
- Article 6: the right to a fair trial
- Article 7: the right to no punishment without law
- Article 8: the right to respect for private and family life, home and correspondence
- Article 9: the right to freedom of thought, conscience and religion
- Article 10: the right to freedom of expression
- Article 11: the right to freedom of assembly and association
- Article 12: the right to marry and found a family
- Article 13: the right to an effective remedy (not included in the Human Rights Act)
- Article 14: the right not to be discriminated against in relation to any of the rights contained in the European Convention
- Article 1, Protocol 1: the right to peaceful enjoyment of possessions
- Article 2, Protocol 1: the right to education
- Article 3, Protocol 1: the right to free elections



Guides available in this series are:

- Your Human Rights – a guide for people living with mental health problems
- Your Human Rights – a guide for disabled people
- Your Human Rights – a guide for older people
- Your Human Rights – a guide for refugees and asylum seekers

The guides are available in single copies for individuals free of charge. They are also available in larger quantities for organisations. Please contact the British Institute of Human Rights for printed copies. You can also download them from [www.bihar.org.uk](http://www.bihar.org.uk).

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Registered charity number 1101575

Please note that the British Institute of Human Rights is a small charity which does not give advice on individual cases. If individuals feel they need advice they should contact a reputable lawyer or one of the organisations listed in the Useful contacts section of this guide.

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