

# THE SMALL PLACES CLOSE TO HOME: A practical introduction to human rights for ASC

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# The title ... small places close to home



“ Where, after all, do universal human rights begin? In small places, close to home, so close and so small that they cannot be seen on any map of the world. Yet they are the world of the individual person: the neighborhood he lives in; the school or college he attends; the factory, farm or office where he works. Such are the places where every man, woman and child seeks equal justice, equal opportunity, equal dignity without discrimination. Unless these rights have meaning there, they have little meaning anywhere. Without concerted citizen action to uphold them close to home, we shall look in vain for progress in the larger world. ”

Eleanor Roosevelt, holding the Universal Declaration of Human Rights



# BIHR ... human rights in practice



**Empowering Individuals:** practical and relevant tools and information to use human rights to self-advocate in their everyday interactions



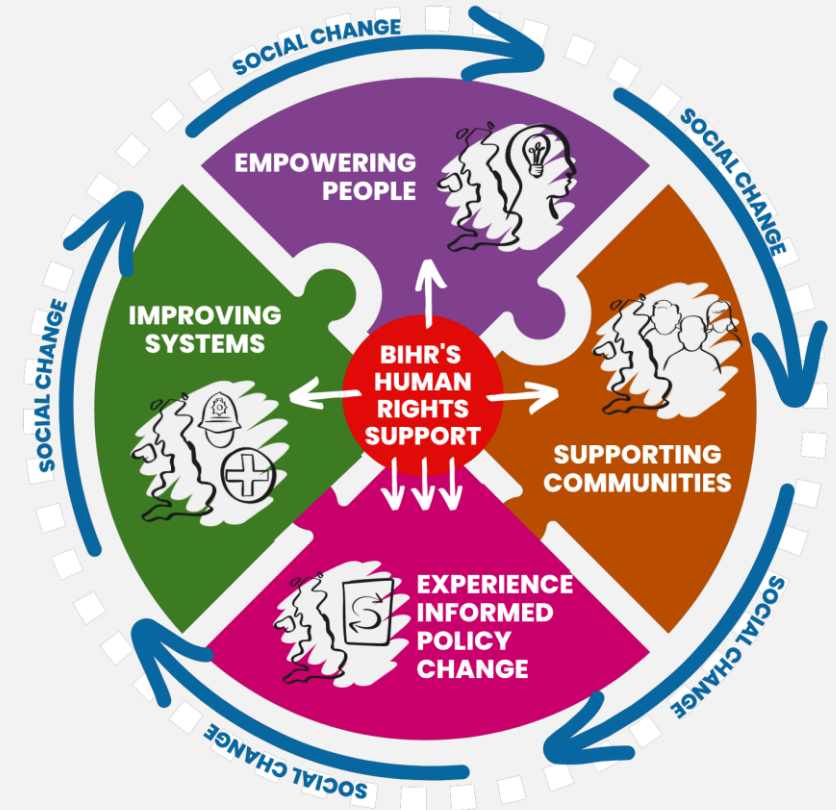
**Supporting Communities:** strengthening the agency of community & voluntary groups to use human rights advocacy in their everyday actions.



**Improving Systems:** Increasing accountability of public bodies and services to uphold human rights across all their actions.



**Experience informed policy change:** amplifying the voices of the people we support to positively influence policy impacting their rights, including securing our Human Rights Act.



# INTERACTING ...

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We're going to use Slido today – an anonymous\* way of interacting for this session

Joining as a participant?

# Enter code here



On a smartphone, go to [www.slido.com](https://www.slido.com) and enter the code #WSASC



Or you can scan the QR code opposite.

Let' do a test!

\*If you have a Slido account already, sign out to remain anonymous!



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**slido**



**Can you share a word(s) or emoji(s) on how you're feeling about today?**

**i** Start presenting to display the poll results on this slide.

# SELF CARE & SAFEGUARDING



- We focus on how human rights apply to real life, sharing and making space for stories on where human rights matter, and where people have experienced breaches, to prevent that.
- This may make some people feel upset or anxious; please take breaks whenever you need, and you can leave the session at any point.
- We do not give legal advice or do casework or direct advocacy, visit [www.bihr.org.uk/help](http://www.bihr.org.uk/help) for signposting
- If you or someone you support is at risk of immediate serious harm, you should follow your safeguarding protocols and for emergencies contact 999



# WHAT ARE HUMAN RIGHTS?



# QUICK FIRST THOUGHTS

I'll move to Slido next to ask you to share the words that come to mind when the following terms are shared:



- **human rights**
- **Human Rights Act**

We'll take a minute; you can talk to your neighbours if you want!





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**What comes to mind when the terms "human rights" or the "Human Rights Act" is raised?**

ⓘ Start presenting to display the poll results on this slide.

# HUMAN RIGHTS: Values & law



→ Familiarity of language of values –in our practices, our policies, our strategies ...



Putting people at the centre of care – choice, control and flexibility

Enabling people to have meaningful lives based on who they are and what they want. Having control and making choices independently is fundamental, including taking risks.  
Survey response

Human rights help move us to practice adding the power of legal duties for positive and proactive action focused on people

# History and context



- Human rights as legal standards emerged from World War II
- Long history but after WWII focus on universal human rights for **everyone** and legal duties on all **governments**.



- The rulebook about how state/government power treat people (not about individual to individual)

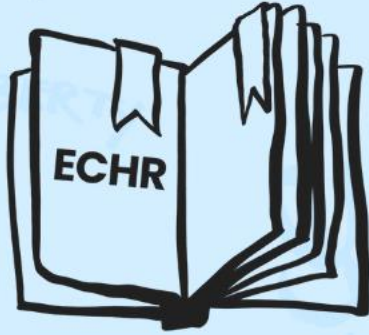


In the UK our law state means everyday public officials in health, care, education, social services as much as prisons or central government departments.





United Nations creates UDHR in 1948, followed by range of international human rights laws



Council of Europe creates the ECHR and Court, a strong regional system of human rights protection  
**NOT THE EU!**



Our domestic law to "bring human rights home" covers whole of UK (GB & NI)

Devolution Acts which provide additional protections for human rights in our systems in Northern Ireland, Wales & Scotland



## WHERE OUR HUMAN RIGHTS LAWS COME FROM



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# UNIVERSAL: For everyone

Human rights belong to all of us, all of the time



“ People with disabilities, both mental and physical, have the same human rights as the rest of the human race. It may be that those rights have sometimes to be limited or restricted because of their disabilities, but the starting point should be the same as that for everyone else. This flows inexorably from the universal character of human rights, founded on the inherent dignity of all human beings ... Far from disability entitling the state to deny such people human rights: rather it places upon the state (and upon others) the duty to make reasonable accommodation to cater for the special needs of those with disabilities. ”

Baroness Hale in the Supreme Court: P v Cheshire West & Chester Council and P & Q v Surrey County Council (2014)



**EVERYONE!**  
People you know and like and people you don't



# Universality of Human Rights



- Cannot be taken away; some can be restricted, if a specific test is followed (more on this later!)
- Restricting non-absolute human rights does not mean not universal -> everyone has the same human rights; restrictions are about making rights work in the real world.
- Not everyone has their rights upheld all the time, but the law means we know where the line is and can take action to ensure accountability and prevention.



# Human rights: law not niceties



Human rights as legal standards **ARE:**

- for every person
- defined by the law, developing in line with society (“living instrument” principle)
- matched by legal duties on those with public power must uphold



Human rights as legal standards **ARE NOT:**

- optional extras, they are the law
- about being nice, kind, or based on our own morality (are person-centred focused on equal dignity)
- duties on everyone, only duties for those with public power

# Human rights in ASC



- When decisions (frontline or big picture) are being made about a person's life, human rights must be supported – a tool for reflection, advocacy, and challenge.



- Based on agreed legal definitions not a battle of moral compasses.

- A counter to closed and risk-adverse approaches, focus on rights maximisation.



- Person-centred service development and delivery, and policy.



- Provides frontline staff with practical decision-making tools and leaders with prioritisation tools enabling proactivity.





# HUMAN RIGHTS ACT: Aims



- The Human Rights Act was passed by the UK parliament in 1998 (started operating from 2000)
- “Bringing human rights home”

2 key aims:

- 1** Making the European Convention rights enforceable in the UK in domestic courts, but not only through litigation;
- 2** Support a culture of respect for human rights in the UK ...





## A human rights culture is:

“... one that fosters basic respect for human rights and creates a climate in which such respect becomes an **integral part of our way of life** and a **reference point for our dealing with public authorities** ... in which all our

institutional policies and practices are influenced by these ideas...The **building of a human rights culture ...[depends] not just on courts** awarding remedies for violations of individuals' rights, but on **decision-makers in all public services internalising the requirements of human rights law**, integrating those standards into their policy and decision-making processes, and ensuring that the **delivery of public services in all fields is fully informed by human rights considerations.**”

UK Parliament's Joint Committee of Human Rights (our emphasis)



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**INITIAL REFLECTION: In your experience of ASC how much do you see this explicit culture of respect for human rights, drawing on the Human Rights Act?**

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# HOW THE UK'S HUMAN RIGHTS ACT WORKS



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**How many rights are in the Human Rights Act?**

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**What might be included in the 16 human rights in our HRA?**

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# Our 16 human rights ...



Article 2  
The right to life



Article 3  
The right to be free from  
torture and inhuman or  
degrading treatment



Article 4  
The right to be free from  
slavery and forced  
labour



Article 5  
The right to liberty



Article 6  
The right to a fair trial



Article 7  
The right not to be punished for  
something that wasn't against  
the law when you did it



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 start a family



Article 14  
The right to be free  
from discrimination



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



Article 1, Protocol 13  
Abolition of the death  
penalty



# 3 WAYS OUR HUMAN RIGHTS ACT WORKS



**1** The Human Rights Act puts a legal duty on **public authorities** to respect, protect and fulfil **people's** human rights across all of their actions, decisions, policies, services, etc.



**2** Other **laws and policies** should be applied in a way that respects **people's** human rights, as far as possible



**3** If 1 and 2 are not complied with **people** can now bring cases in the **UK courts** (or **authorities** can ask for a court decision)





# HRA **1**: The legal duty on public authorities



**RESPECT people's human rights:** not breach/violate human rights, and only restrict non-absolute human rights when needed.

→ Your negative duty, stepping back / not doing something that interferes with someone's human rights.



**PROTECT people's human rights:** step in and take positive action to safeguard someone's human rights.

→ Your positive duty, taking reasonable steps when known risk of imminent harm to their human rights.



**FULFIL people's human rights:** investigating when people's human rights have been breached, and to try and stop it happening again.

→ Your procedural duty, unpick what has happened and prevent future breaches of people's human rights.



# HRA 1: What is a public authority?

Who has the legal duty!

## Core Public Authorities

“public authorities” including courts and tribunals. And ...

## Functional or Hybrid Public Authorities

Private or charitable bodies performing “public functions”  
For example ...

Private Companies  
Charities  
Not for profits



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**Bill loves art and attends a social care support service. DOES BILL HAVE THE RESPECT, PROTECT, FULFIL LEGAL DUTY UNDER THE HUMAN RIGHTS ACT?**

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**Mandy, is Bill's girlfriend. DOES MANDY HAVE THE RESPECT, PROTECT, FULFIL LEGAL DUTY UNDER THE HUMAN RIGHTS ACT?**

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**Dave is Bill's dad, Bill lives at home with his dad. DOES BILL HAVE THE RESPECT, PROTECT, FULFIL LEGAL DUTY UNDER THE HUMAN RIGHTS ACT?**

ⓘ Start presenting to display the poll results on this slide.

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**Warwick, is the manager at Bill's support service. DOES WARWICK HAVE THE RESPECT, PROTECT, FULFIL LEGAL DUTY UNDER THE HUMANR RIGHTS ACT?**

ⓘ Start presenting to display the poll results on this slide.

slido



**Zora, is Bill's social worker. DOES ZORA HAVE THE RESPECT, PROTECT, FULFIL LEGAL DUTY UNDER THE HUMANR RIGHTS ACT?**

ⓘ Start presenting to display the poll results on this slide.

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**The CQC inspects Bill's social care service. DOES THE CQC HAVE THE RESPECT, PROTECT, FULFIL LEGAL DUTY UNDER THE HUMAN RIGHTS ACT?**

ⓘ Start presenting to display the poll results on this slide.



# HRA1: Identifying public officials

OFFICIALS	OTHERS WHO PROVIDE OFFICIAL SERVICES	NOT OFFICIALS
<p>Doctors, nurse, health workers, hospital and GP staff</p> <p>Social workers</p> <p>Teachers</p> <p>DWP staff (benefits)</p>	<p>Staff at companies and charities who the local authority has asked to support you, for example:</p> <ul style="list-style-type: none"> <li>• A therapy farm</li> <li>• A day centre</li> <li>• Benefits assessors</li> </ul>	<p>Parents</p> <p>Friends</p> <p>Shopworkers and managers</p> <p>Your colleagues if you don't work for a public service</p>



# HRA1: Who has human rights duties?



**Do NOT have a legal duty to uphold people's human rights**



**DO have a legal duty to uphold people's human rights**



**Bill, lives in a care home**



**Lynn, Bill's girlfriend**



**Dave, Bill's dad**

**INDIVIDUALS**



**Warwick, care home manager**

**HYBRID SERVICE**



**Zora, Bill's social worker**

**PUBLIC BODIES**



**CQC inspectors**



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# HRA **2**: A foundation law

- The Human Rights Act operates as a foundation law.
- Other laws must be compatible with human rights or applied in a way that upholds (so far as possible).
- Policy, Guidance and Regulations (+ law not passed by UK parliament) can be disapplied if needed to meet the HRA legal duties.



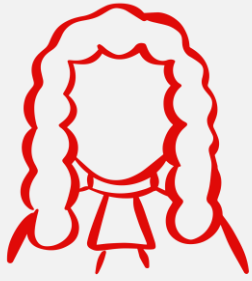
# HRA 2: Applying other laws

Public bodies and staff have a legal duty to apply other laws (Acts of Parliament) in a way that upholds people's human rights so far as possible (s. 2 HRA)

**EXAMPLE:** staff cannot ignore someone's human rights when making decisions using the Mental Health Act such as sectioning or the use of restraint or compulsory treatment.

Courts can't strike out/invalidate Acts of parliament that are incompatible with human rights (parliament is sovereign), up to parliament to change the law if courts make a declaration.





# Supreme Court: public bodies can disapply subordinate laws and policies

“ The Human Rights Act is an act of the United Kingdom parliament and takes precedence over subordinate legislation such as the regulation in question ... This means that incompatible subordinate legislation must simply be ignored ... There is nothing unconstitutional about a public authority, court or tribunal disapplying a provision of subordinate legislation which would otherwise result in their acting incompatibly with a Convention right, where this is necessary in order to comply with the HRA. Subordinate legislation is subordinate to the requirements of an Act of Parliament. The HRA is an Act of Parliament, and its requirements are clear. ”

R v Secretary of State for Work and Pensions (2019)



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# OUR HUMAN RIGHTS IN THE HUMAN RIGHTS ACT



# Absolute + non absolute human rights



**Absolute rights:**  
Can never be  
restricted!

It does not matter  
the reasons it is  
**NEVER** lawful to  
restrict one of these  
human rights



**Non-absolute rights:**  
officials can only restrict  
these human rights  
following the 3-stage test



**1** **LAWFUL**



**2** **LEGITIMATE AIM**



**3** **PROPORTIONATE**



# The 16 Rights in the HRA



**The right to life**



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



**The right to be free from slavery or forced labour**



**The right to liberty**



**The right to a fair trial**



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



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



**The right to freedom of thought, conscience and religion**



**The right to freedom of expression**



**The right to freedom of assembly and association**



**The right to marry and found a family**



**The right to be free from discrimination**



**The right to peaceful enjoyment of possessions**



**The right to education**



**The right to free elections**



**Abolition of the death penalty**



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# The right to respect for private and family life (Article 8)

## Private Life

- physical and mental well-being
- autonomy over self and involvement in decisions about own life, care, etc.
- participation in person's community
- relationships with others
- confidentiality

## Family Life

- develop ordinary family relations
- Presumption of ongoing contact if split up

## Home

- not a right to housing
- about enjoyment of current home, e.g. where people are living in accommodation as their home

## Correspondence

- uncensored communication with others
- letters and modern communications



**All clearly touches on everyday aspects of ASC**





# Right to family life and home in real life (Article 8)



Sandeep, Dani and Sally were from Hackney, but for the last 3 years the Council paid for them to live together residential housing 70 miles away. To save money the Council wanted move Sandeep, Dani and Sally back to Hackney.

Sandeep's advocate helped him challenge the Council. They said moving him and Dani and Sally would restrict their right to respect for home and family life because they were living as a 'family' together and had not been consulted about changing their home location. Sandeep said this restriction on their human rights did not pass the 3 tests.

The Council decided not to move them, and they remained living together.





# Right to be free from inhuman treatment (Article 3)



Beth left her abusive partner and became homeless. She has been working with a social worker, Karen, to try to get accommodation. The housing team is refusing to rehouse Beth. Beth is starting to think that her only option is return to living with her ex-partner. Karen knew this was a human

rights issue. Rather than relying on what was “fair” or “appropriate” or trying to find policy loopholes Karen was able to talk to housing colleagues about how not providing safe accommodation could breach Beth’s right to be free from inhuman and degrading treatment (an absolute right) due to the risk of further abuse from her ex-partner if she returned home The housing team looked again at their decision and decided to rehouse Beth.



# What does human rights leadership and practice look like?

Individual decision-making, guiding principles and culture:

“ Using human rights has improved the culture of our organisation. I started off sceptical about what difference it would make, but there has been a big turn around and the service is better as a result ”

“ Using a human rights approach has revolutionised decision-making. Staff are thinking differently and making decisions differently. It needs to be rights based, not just risk based. ”

“ incorporating human rights into our practice, has given the whole staff team a boost to be involved in something so innovative and has given us a new perspective. It has started an evolutionary process for us and our service users are telling us they feel the benefit.” ”



# What does human rights leadership and practice look like?

## Example from a recent BIHR Practice Leads programme:

Mary had set herself the goal of being able to use the Human Rights Act to inform strategy. As part of her job there was a need to rewrite the service's Mental Capacity Act Policy, a Safeguarding Policy and a Domestic Violence Policy. Despite significant push back due to time restraints, Mary was able to use the knowledge gained during the course to ensure that human rights were reflected in these new policies. Mary explained that it was the legal language learned in the programme that was instrumental in explaining to colleagues that a human rights approach was not an option, but a necessity.

**“I am currently working with others in our city and ICB to review our MCA strategy and it will be human-rights-heavy. I carry this mentality in the way I chair a national community of practice.”**



**Questions – in person  
after this session, please  
come and find me!**



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**What one key thought or action on human rights from this talk will you take away with you?**

ⓘ Start presenting to display the poll results on this slide.

**Returning to the start of the session ... for you to take away, what can you do to make this happen and get ASC to a 5 out 5!**



**A human rights culture is:**

“... one that fosters basic respect for human rights and creates a climate in which such respect becomes an **integral part of our way of life** and a **reference point for our dealing with public authorities** ... in which all our institutional policies and practices are influenced by these ideas...The **building of a human rights culture ...[depends] not just on courts** awarding remedies for violations of individuals' rights, **but on decision-makers in all public services internalising the requirements of human rights law**, integrating those standards into their policy and decision-making processes, and ensuring that the **delivery of public services in all fields is fully informed by human rights considerations.** ”

UK Parliament's Joint Committee of Human Rights (our emphasis)





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## **EASY READ hub**: A Guide to the Human Rights Act

- Factsheets on all 16 human rights
- Human rights postcards
- Videos on the Human Rights Act



## **GET INFORMED section of our website**

- How the Human Rights Act works
- What human rights do I have
- Who has human rights duties
- Human rights in real life
- Free resources, including co-produced with young people



# BE THE CHANGE



“ Where, after all, do universal human rights begin? In small places, close to home, so close and so small that they cannot be seen on any map of the world. Yet they are the world of the individual person: the neighborhood he lives in; the school or college he attends; the factory, farm or office where he works. Such are the places where every man, woman and child seeks equal justice, equal opportunity, equal dignity without discrimination. Unless these rights have meaning there, they have little meaning anywhere. Without concerted citizen action to uphold them close to home, we shall look in vain for progress in the larger world. ”

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