



# Using Human Rights to Get Me Home



**My Life**  
**My Choice**

Co-produced with

The British Institute  
of Human Rights 



**“Now that we’ve got this Easy Read document people will know their rights without having to worry about knowing the jargon and long words. We can take it when we go and visit people from our area stuck in long stay hospitals away from where they live. We will show people how to use the guide to make sure their rights are met. It will be very effective and help make sure people are out of hospital and back home soon!”**

**Adrian Chappell - My Life My Choice Champion**



**This guide is for information purposes only. It is not intended, and not be used as, legal advice or guidance. The law referred to in this guide many have changed since it was published.**

## About this guide



This guide has been made by My Life My Choice and the British Institute of Human Rights.



This guide will tell you about your human rights, and how they work.



The guide will look at rights that are important to you, and what you can do if they are not being respected.



The guide is for people with learning disabilities who have been in hospital for a long time without good reason.

Human Rights



The guide will tell you how you can use human rights to have a say over your care and treatment.



## How human rights can help



If you would like this section in audio video format, you can click this QR code or scan it by pointing your phone camera at it.



The law says that we have a say over our treatment and where we are receiving care.



Everyone has human rights all the time. We can use our rights.



The Human Rights Act says we have a right to have our concerns listened to and considered.



We can use the Human Rights Act to challenge the length of our stay in hospital.

Human Rights



This part of the guide will tell you about our human rights, and how we can use them to have a say over our care.

Human Rights =



Human rights mean that we must be treated with dignity, respect, and fairness.

Human Rights =



Human rights mean that we must be listened to and given a say over our lives.

Human Rights



Every human being in the UK has human rights, no matter who we are.



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The Human Rights Act means that in the UK, our human rights are not just a nice idea, they are the law.

## What is the Human Rights Act?



If you would like this section in audio video format, you can click this QR code or scan it by pointing your phone camera at it.



The Human Rights Act is a law in the UK that gives us all our human rights.



The Human Rights Act makes it the law that public bodies must protect, respect, and fulfil our human rights.



Human Rights

**Respecting our rights means that public bodies must not do anything that will take our rights away.**



Human Rights

**Protecting our rights means that public bodies must act if they see that our rights are not being respected.**



**Fulfilling our human rights means that if our rights are affected, public bodies must investigate so that it does not happen again.**

## What is a public body?



The Human Rights Act says that public bodies have a legal duty to respect, protect, and fulfil our human rights.

A public body is a person or organisation that does a job for the government.



This includes police, social workers, carers that work for the NHS, and local authorities.



Public bodies can never get rid of our human rights.



Sometimes public bodies can limit some of our rights, but this must be for a good reason, like keeping us or other people safe.

## When can your rights be limited?



If you would like this section in audio video format, you can click this QR code or scan it by pointing your phone camera at it.



There are 16 rights in the Human Rights Act.

Some of the 16 rights in the Human Rights Act are absolute rights.



This means they can never be limited for any reason.





Sometimes public bodies can limit our rights, but these must be for good reasons, like keeping us or other people safe.



Decisions that limit non-absolute rights have to pass a 3-part test:

1. Lawful
2. For a good reason
3. Thought about properly

Lawful means: there must be a law that gives a public body permission to limit our rights.



For example, the Mental Health Act and Code gives public bodies permission to restrain someone in some situations.



A good reason means they must show and explain how their decision protects us or other people.



Public bodies must think about things properly and make the decision that limits our rights the least, still respecting our human rights as much as possible.

## Article 8 – The Right to Private and Family Life, Home, and Correspondence



If you would like this section in audio video format, you can click this QR code or scan it by pointing your phone camera at it.



Article 8 of the Human Rights Act gives us the right to a family, a private life, to enjoy our home, and to communicate with others.



Article 8 is a non-absolute right. This means that public bodies can limit it if it meets the 3-stage test.



That test asks whether the limit is lawful, whether it is for a good reason, and whether that decision is properly thought about.



The private life part of Article 8 means we have a right to privacy. Public authorities must not tell people our private information.



The right to a private life includes a right to wellbeing, which is our physical and mental health.



It also includes a right to make decisions over our own body and life.



The family life part of Article 8 means we have a right to speak to our family members and close friends.



The home part of Article 8 means that we have the right to enjoy the home we are in. Our home can also include hospitals, care homes, and anywhere where we are living.



The correspondence part of Article 8 means that we have a right to contact friends or family.

This right might matter to us if:



1. We are staying in hospital and our wellbeing is at risk



2. We are not being involved in decisions over our treatment



3. A public body is stopping us from having contact with our family or friends.



4. A public body is stopping us from making decisions about the way we look and dress.



## Article 8 in real life – Steven and Mark (Hillingdon v London Borough Council v Neary, 2011)



Steven was a young man with a severe learning disability.



He lived at home with his dad, Mark.



Mark became ill so Steven went into a support unit for a couple of weeks while Mark got better.



The local authority then kept Steven in the support unit for over a year even though he and his dad did not want this.



Steven tried to leave the unit, but the local authority signed a Deprivation of Liberty order so he could not leave.



The local authority looked for long-term accommodation for Steven miles away from his dad.



Steven and his dad took a case to the court about their human rights.



The court decided that Steven's right to family life was breached because he had been stopped from living with his dad.



It was decided that Steven could go back home to live with his dad.

## Article 3 – The Right to be Free from Serious Harm



If you would like this section in audio video format, you can click this QR code or scan it by pointing your phone camera at it.



Article 3 of the Human Rights Act gives us the right not to be treated in a way that causes us serious harm or distress. This is also called inhuman or degrading treatment.



Serious harm is something that makes us very frightened or worried, that causes us a lot of pain, or makes us feel worthless or hopeless.



Our right to be free from serious harm may be at risk if we are experiencing abuse and neglect, or we are not getting the right support or care.



This is an absolute right, so public bodies cannot limit this right for any reason.



Public bodies need to consider each individual person. Something that may not be distressing to one person could be very distressing to someone else.

## Article 3 in real life – Ben



Ben, who was autistic and had learning disabilities, lived in a care home in Devon for 17 months.



Ben was mistreated by staff there.



Staff at the care home used physical restraint against Ben when they did not need to.



They also took away his toys and clothes because they said they were too childish.





They punished Ben by sending him to a locked room which had no natural light, bed, or toilet.



Ben was sometimes left there overnight and would often cry, scream, self-harm and wet himself. Staff did not help him or let him out.



They stopped Ben from seeing his mum for 42 days and was told that she had died even though this was not true.





Ben and his family made a human rights legal challenge against the care home.



The care home admitted that they had taken away Ben's right to be free from serious harm and distress.



The care home agreed to pay compensation and to apologise to Ben.



The Local Authority also apologised to Ben and his family.



The Secretary of State, who is the UK Government official in charge of health and care, has also agreed to apologise.

## Article 5 – The Right to Liberty



If you would like this section in audio video format, you can click this QR code or scan it by pointing your phone camera at it.



Article 5 means that we have a right to be free from big controls on our movement.



This means that, as much as possible, public bodies must respect our right to move around.



The right to liberty is non-absolute. This means that public bodies can limit our movement in some situations.



This right might matter to us if we are being restrained for a very long time, or if we are stopped from leaving a place such as a hospital when no law says this is allowed.



This right might matter to us if we have to wait a very long time for our care and treatment to be looked at by a court or tribunal.

## **Article 5 in real life – Megan (P & Q v Surrey Council 2014)**



Megan has a learning disability and lives with her mum.



Megan was moved into an NHS residential unit due to concerns about her safety.



Whilst in the residential unit, Megan was told she had to have staff with her whenever she left the unit.



This upset Megan because she was able to go out by herself before.



Megan felt that her right to liberty was being limited wrongly as she was not allowed to leave by herself.



Megan went to court to ask for a judge to look at her human rights.



The court said that Megan was right and should be allowed to go out by herself.



This meant that residential unit was not looking after Megan's right to liberty properly.



Megan having a learning disability does not stop her from enjoying her human rights.



## Using human rights to get me home



If you would like this section in audio video format, you can click this QR code or scan it by pointing your phone camera at it.



This section will give tips on how to use human rights as a tool to challenge how long you are staying in hospital for.



If you think your rights are not being respected by a public official, there are steps you can take.





Firstly, you can mention it to the public official by saying you think they are not respecting your rights.



You can ask that public official about the length of your stay or ask them to tell you how they are looking after your rights.



You can also tell that public official if you think changes can be made to look after your rights better.



If they do not listen to you, you can make a complaint in writing. You can ask for a meeting to talk about your rights.



You can ask friends, family, or an advocate to help you with any of these steps.



If you need more help, there are other organisations that could help you.



You can talk to Mencap which is a helpline for people with a learning disability. You can call them on 0808 808 1111.



You can also contact My Life My Choice by calling them on 01865 204214.



If you are still not being listened to, you could then make a complaint higher up to the boss of the public official.



An ombudsman is someone who deals with complaints about organisations. It is free to talk to an ombudsman.



You can click here to go to the website for the ombudsman which is right for you.



You can also contact the Care Quality Commission and ask them to investigate.



The Care Quality Commission can investigate concerns you have about your care or treatment.



You can click here to go to the Care Quality Commission's website.



If you think a crime has been committed, or if you are in immediate danger, call the police using 999.



Before taking further action, you should talk to a solicitor who can tell you what the best next step is.

## Talking about your human rights in court



One of the steps you can take to have your rights protected is to apply for judicial review.



Judicial review is where a court looks at a decision made by a public official over your treatment.



The court will decide whether the public official made the right decision over your treatment.



Sometimes the court may say that the public official did make the right decision. In these cases, nothing else will happen.



But if the court finds the public official didn't make the decision in the right way, they will be told to make the decision again.



This means the public official will need to make the decision about your treatment again.





Sometimes they may come to the same decision as before, but they will have to show it respects your rights.



The court may also order that the limit on your rights is put right.



This could mean you are paid money to make up for your rights not being respected.



It could also mean that actions that are affecting your rights must be stopped, including letting you go home if you are staying in hospital for too long or for no good reason.

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