

Human Rights Act

Introduction

This Factsheet is about The Human Rights Act 1998 (HRA) and how it relates to our service. It should be read together with our '[How to Complain](#)' webpage, available on the 'Making A Complaint' tab.

How the Human Rights Act affects our work

We consider complaints of maladministration or service failure on the part of public bodies which causes hardship or injustice to members of the public. When deciding whether to investigate a complaint we must consider whether the public authority concerned has acted in a way which is incompatible with the rights set out in the HRA. These rights were first established by the European Convention on Human Rights and are known by a series of 'Articles'.

What we can do

If you think that a public authority's decision has impacted on your human rights, we may be able to look at your complaint.

We can:

- consider whether it appears that the authority may not have considered the HRA and whether this would amount to maladministration;
- ask the authority to reconsider its decision based on this view;
- recommend the actions that the authority needs to take to put things right.

The most common complaints are that a public authority has not considered –

- Article 2: The right to life – e.g. providing life-saving treatment, refusal of life saving medicine, do not resuscitate decisions
- Article 3: The right not to be tortured or treated in an inhuman or degrading way – e.g. issues of dignity in any care setting
- Article 5: The right to liberty – e.g. ability of people to make their own decisions or mental capacity issues
- Article 8: The right to respect for private and family life – e.g. housing conditions or THE right to independent living.

What we cannot do

We cannot:

- decide that there has been a breach of the HRA; this is for the courts to decide (see further information for other bodies which may be able to assist you).

Issues to bear in mind

- If we uphold your complaint, we may make recommendations to the authority about what it should do. This may include a request to carry out a new assessment of your circumstances or to reconsider your complaint.
- You do not need to make your complaint to us using a solicitor or any other advocate; our service is free and impartial, and we aim to make the process as easy to follow for complainants as possible.

Further information

You may like to consider contacting the following organisations for advice:

- The **Equality and Human Rights Commission (EHRC)** promotes and monitors Human Rights, and protects, enforces and promotes equality. It will undertake test cases to achieve wider change but will not always be able to provide individuals with support. The EHRC works with the **Equality Advisory Support Service (EASS)** to assist individuals. The EASS can be contacted for advice either by telephone on 0800 800 0082 or by writing to FREEPOST, Equality Advisory Support Service, FPN4431;
- **Citizens Advice Wales** – 08444 77 20 20 or www.citizensadvice.org.uk

Examples of cases that we have looked at can be found on our website, under the 'Publications' tab on the '[Our Findings](#)' page.

Contact us

If you are unsure whether we would be able to look into your complaint, please [contact us](#) on 0300 790 0203 or ask@ombudsman.wales

Also available in Welsh.

Easy Read

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