

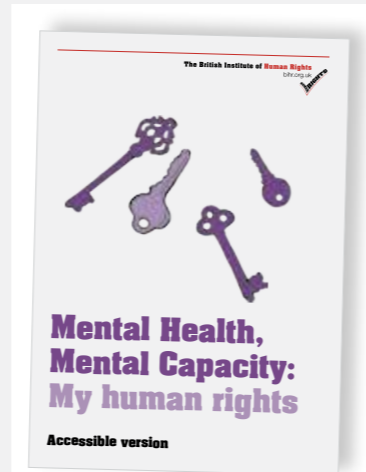
# **Mental Health, Mental Capacity: My right to life**

**Accessible mini guide**

# Finding your way around our mini guides

This factsheet is one of ten mini guides about your human rights.

- 1 Mental Health, Mental Capacity: What are human rights?
- 2 Mental Health, Mental Capacity: How are my human rights protected?
- 3 Mental Health, Mental Capacity: Who has duties to uphold my human rights?
- 4 Mental Health, Mental Capacity: My right to life
- 5 Mental Health, Mental Capacity: My right to be free from inhuman or degrading treatment
- 6 Mental Health, Mental Capacity: My right to liberty
- 7 Mental Health, Mental Capacity: My right to respect for private and family life, home and correspondence
- 8 Mental Health, Mental Capacity: My right to be free from discrimination
- 9 Mental Health, Mental Capacity: How can I use my human rights?
- 10 Mental Health, Mental Capacity: About BIHR and our work



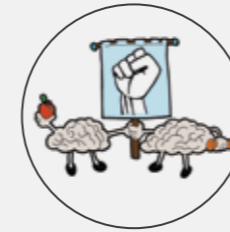
The information in these factsheets is taken from a booklet called 'Mental Health, Mental Capacity: My human rights.'

You can get a copy of the booklet by contacting BIHR or visiting our website: [www.bihhr.org.uk/health](http://www.bihhr.org.uk/health)

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0207 882 5850

*This factsheet is to help you understand your rights. It is not legal advice.*

# What is this mini guide?



This mini guide is about mental health, mental capacity and human rights.



This mini guide aims to give you information about how human rights can help you to have **more control over your own life** and be **treated with dignity and respect**.



This mini guide explains your human rights when you are receiving **health and care services**, e.g. at your GP, in hospital, community care, care homes etc.

## This information can also help you with



education



housing

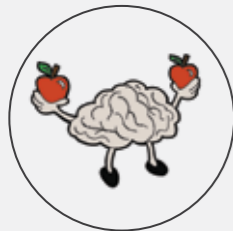


and dealing with the police.

# Who is this mini guide for?

This mini guide is for anyone with a mental health or mental capacity issue.

## Mental Health and Mental Capacity



### Mental Health

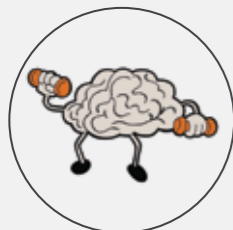
We use the term 'mental health' to include anyone who has a "disorder or disability of mind". This is how 'mental health' is described in law, in the Mental Health Act.



This includes things like depression, dementia, eating disorders, autistic-spectrum disorder, and behaviour changes caused by brain damage and personality disorders.



This mini guide will be useful for anyone receiving care or treatment for a mental health issue.



### Mental Capacity

Capacity is about your everyday ability to make decisions about what happens to you.

Under the law, 'having capacity' means when a decision needs to be made (e.g. about what treatment you should have) you are able to

- understand
- remember
- weigh up the pros and cons and
- let people know what you have decided.



Sometimes having a learning disability, dementia or brain damage, drinking alcohol or taking drugs might mean you're not able to do those things. Under the law this is called 'lacking capacity'.

# Right to life



This right is protected in law by the Human Rights Act. The right to life is called 'Article 2'.

How is my right relevant in mental health or mental capacity settings?

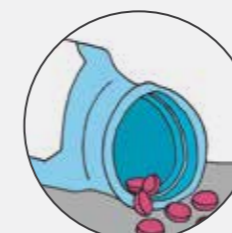
Some examples include:



If you are having suicidal thoughts or want to take your own life whilst in hospital or in detention and public officials know you are at risk of suicide but don't protect you.



Abuse or neglect in detention or care which leads to death



Healthcare professionals refusing to give you life-saving treatment because of your mental health or capacity issue



Can my right be restricted by mental health or mental capacity services?

No. A health or care professional cannot deliberately take away your right to life.

## What duties do health or care workers have about my right to life?



### To RESPECT your right

This means not deliberately taking away your life.



### To PROTECT your right

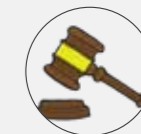
This means taking reasonable steps to protect your life when public officials know (or should know) that your life is at real and immediate risk. This risk could be from another official or other people like your family or a patient, or from yourself (if you have suicidal thoughts whilst in the care of services).



### To FULFIL your right

This means investigating when officials may have been involved in a death or failed to act, for example if a person staying on a mental health ward takes their life whilst in hospital.

## In real life: Right to life



### Protecting patients at risk of suicide



Melanie Rabone was 24 years old and voluntarily admitted herself to a mental health hospital after she had attempted to take her own life.

She was assessed as being at high risk of suicide, and whilst on leave from the hospital took her own life.



Her family took a human rights case to court, and the court ruled that the hospital had failed in their duty to protect Melanie's right to life.



The hospital had a duty to take reasonable steps to protect Melanie's life, including by detaining her under the Mental Health Act to try and prevent her suicide.

(Rabone v Pennine Care NHS Foundation Trust, 2012).

## In real life: Right to life



### Treatment withheld from man with learning disabilities



Bryn is 60 years old and lives in supported living. Bryn has complex learning disabilities and people can find it really difficult to understand what Bryn is telling them.



Staff noticed that Bryn started sitting in his chair to go to sleep. They were worried that he might have problems with his heart, so they called in Bryn's doctor.



They had a meeting with the people involved with Bryn's care to work out what needed to be done. At this meeting Bryn's doctor said because Bryn had a learning disability and had no quality of life he would not organise a heart scan for Bryn.



Bryn's Mental Capacity Advocate was also at this meeting. She had been to a workshop on human rights run by the British Institute of Human Rights. She didn't think that Bryn's rights were being respected. She knew that Bryn had:

- the right to life (protected by Article 2 in the Human Rights Act)
- the right to be free from discrimination (protected by Article 14 in the Human Rights Act)



At the meeting Bryn's advocate asked the doctor if he would have arranged a heart scan if anyone else in the room was in this situation. The doctor said he would. The people at the meeting then agreed that Bryn should get his scan.



The advocate had to keep asking the doctor to organise the scan and eventually it was arranged for Bryn to have a heart scan. However, it had taken so long to organise it was too late to treat his heart condition and sadly Bryn died.

(Real life example from Solent Mind, participants in BIHR's project Care and Support: A Human Rights Approach to Advocacy)

### The rights protected by our Human Rights Act:



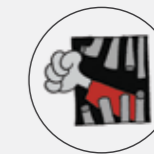
Right to life  
(Article 2)



Right not to be tortured or treated in an inhuman or degrading way  
(Article 3)



Right to be free from slavery or forced labour  
(Article 4)



Right to liberty  
(Article 5)



Right to a fair trial  
(Article 6)



Right not to be punished for something which wasn't against the law when you did it  
(Article 7)



Right to respect for private and family life, home and correspondence  
(Article 8)



Right to freedom of thought, conscience and religion  
(Article 9)



Right to freedom of expression  
(Article 10)



Right to freedom of assembly and association  
(Article 11)



Right to marry and found a family  
(Article 12)



Right not be discriminated against in relation to any of the human rights listed here  
(Article 14)



Right to peaceful enjoyment of possessions  
(Article 1, Protocol 1)



Right to education  
(Article 2, Protocol 1)



Right to free elections  
(Article 3, Protocol 1)



Abolition of the death penalty  
(Article 1, Protocol 13)