

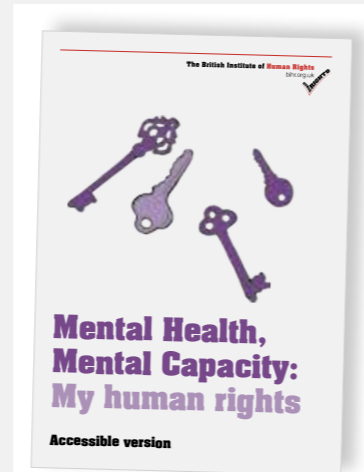
Mental Health, Mental Capacity: Who has duties to uphold my human rights?

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



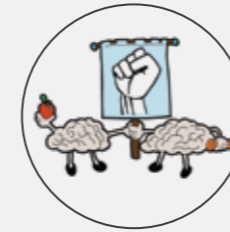
The information in these factsheets is taken from a booklet called 'Mental Health, Mental Capacity: My human rights.'

You can get a copy of the booklet by contacting BIHR or visiting our website: www.bihr.org.uk/health

info@bihr.org.uk
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 has duties to uphold my human rights?

Public authorities have a legal duty to respect and protect your rights in everything that they do, including the services you use.

This means that **people working in public services have to uphold your human rights.**

This includes:



NHS staff



Local authority staff e.g. social services, housing etc



Private health and care providers where your care is arranged or paid for (in any part) by the local authority



Police



Prison staff



Courts and tribunals, eg the Mental Health Tribunal, the Court of Protection

This is not a full list, just examples of who has duties to uphold your rights.



Sometimes a local authority will pay a private company or a charity to deliver health and care services.

These organisations and the people working for them also have a legal duty to uphold your rights.



If you don't think your human rights are being respected you should contact someone working in a public authority like a social worker, your GP, your council or the Care Quality Commission.



For serious concerns, contact the police.



Once they know your rights are at risk, they will have a duty to act and take steps to protect your rights.

Why are human rights duties important?

The duty on public officials to respect your human rights is really important in everyday situations because if you are treated badly by services you can:



Speak up because you have human rights which should be respected and protected

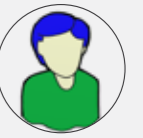


Talk to your services about whether they are meeting their legal duty to respect and protect your human rights



Work with services to find better solutions without the need to go to court or use a lawyer

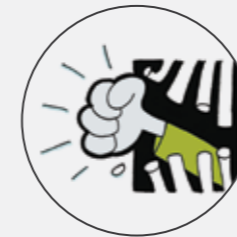
In real life: patient challenges not being allowed off ward



Jenny was an informal patient in a hospital (this means she had not been detained under the Mental Health Act).



She was not being allowed to go off the ward to visit the shops or go for a coffee. When Jenny's advocate questioned the hospital staff about this, they said they didn't feel she was well enough to leave the ward.



Jenny's advocate explained to the staff that Jenny was being prevented from leaving unlawfully and that this might be a breach of her right to liberty (protected by Article 5 of the Human Rights Act).



After talking with the staff, Jenny agreed that a staff member could accompany her off the ward. The situation was then discussed with the ward manager and Jenny was allowed off the ward unaccompanied and was safe.

(Real life story from Mind in Brighton and Hove, a partner organisation on BIHR's Care and Support project)



There are lots more examples of people using human rights in our other mini guides.

The rights protected by our Human Rights Act:



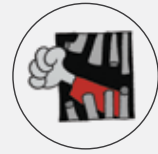
Right to life
(Article 2)



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 to 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)