**RAISING AN ISSUE FORMALLY**

If you have been unable to resolve the matter informally, you may want to consider writing a letter of complaint.

This has many advantages, particularly since the organisation will have to write you a letter in response.

**Tips for writing a letter:**

* Set out the facts. You need to give enough detail to explain the situation but not so much that you confuse the people that you are writing to. Try to keep it to no more than 1 page.
* Be specific about which right they are failing to protect or respect. Tell them why you think so
* Explain what you think they should have done, and what you think they should do now
* Be clear, polite, and indicate that you expect an answer.
* Have someone else read it over to make sure that it makes sense to someone who is not familiar with your case.
* If you are not happy writing the letter for yourself, ask for help from an advocacy organisation or a lawyer.
* Rest as a letter writing section of the website

**WHAT TO DO NEXT**

**If you receive a response:**

If the response is helpful and the public authority wishes to discuss with you to help resolve the situation then ask to meet with them and discuss the matter further:

* Remember to take good notes of the meetings, including anything they say they will do.
* Ask for a timescale and make a note of this.
* If they fail to make the corrections you have asked for; or if they do not do so in the agreed timescale, ask to meet with them again. Tell them you will escalate your complaint if it is not addressed quickly.
* If you are not happy and they refuse to take your complaint seriously or continue to ignore your rights, then you should make a firmer request for an explanation or resolution.

**No response?**

Depending on the severity and urgency of your issue, if you receive no response within a reasonable period of time you should follow your letter up with a phone call to check that it has been received.

a) If the letter has not been received:

• Re-send it and make a firm request for a response within a given period of time.

• Consider sending by registered post or delivering by hand.

• Tell them you would like an acknowledgement of receipt as soon as the letter arrives

b) If the letter has been received but the individual concerned is vague about when you can expect a response, or does not appear to take the issue seriously:

• Resend a copy of your letter to the management of the public authority (for example the chief executive or head of a service within a council).

• Be specific about your previous letter and include the date it was posted and who it was addressed to.

• Tell the manager / chief executive / head of service that you received no response to your first letter.

• You could also send a further letter to the person who received the first letter to tell them about the action you have taken. This might encourage them to act more quickly.

**STEPPING UP YOUR RESPONSE**

**Stepping up the intervention may take a number of forms:**

• Strengthening the human rights arguments in a follow-up letter.

• Asking for an immediate meeting to discuss the response.

• Warning them that you will be forced to take more serious action if the issue is not resolved.

• Writing directly to the next level management.

The approach you take will probably depend on the urgency of the case and on whether you are anxious not to alienate the school / care home / hospital or other body where the concern has arisen. If you believe that a relatively non-confrontational approach may lead to a resolution and the public authority appears to be making efforts to respond to your concerns, it may be worth requesting a (further) meeting to talk to the individuals directly.

**Requesting an explanation of their decision:**

Any follow-up letter or meeting should also ask the authority to explain how they came to the decision which has led to your concern. By asking them this you will often force them to reconsider the issue in light of the law.

This can often lead them towards a more satisfactory response.

It is also useful to have their full reasoning before taking further action, as it makes it easier to seek assistance from support groups or advisors to challenge the decision.

**Strengthening the human rights arguments**

Provide more detail:

Outline in more detail why you think human rights are an issue. This will probably involve describing in more detail the extent of suffering on the part of the individual and referring to the content of relevant articles.

Addressing proportionality:

The authority may admit that there has been some restriction of human rights, but believes that their approach was a proportionate response given the other demands they have to satisfy.

Ask them how they came to this decision and describe in more detail why you think it was not proportionate – for example, by suggesting another approach or by describing the extent of suffering of the individual concerned.

Violation of absolute rights:

If you believe the violation is serious enough to constitute inhuman and degrading treatment, or a threat to life, a response of ‘proportionality’ will not be satisfactory. Tell the authority why you believe an absolute right has been violated. Remind them that such rights do not allow for any exceptions and the authority should act immediately to prevent further harm and to remedy the situation.

**SAMPLE SCENARIO**

Wendy is an older woman who recently experienced a stroke and as a result had to move into local authority residential care.

She now has problems expressing herself. She is too frail to clean and bathe herself and is helped in these tasks by carers. Prior to her stroke, Wendy had been cared for at home for several years and was always bathed and manually handled by female carers, at her request. When she moved into the residential care home, it was made clear that she does not like to be manually handled by male carers.

One day, her son, Barney, arrives for a visit. He is told that she is being bathed. As he is walking to her room he sees her being assisted in the hallway by a male carer. Barney can tell she is distressed. He asks the carer if he has been bathing his mother and the carer says yes. Barney asks why this has happened, when the care home knows that his mother does not like to be touched by men. The carer says that Barney is too old to realise what is happening and therefore ‘it is not a problem’.

Yvette, who lives in the room next to Wendy, tells Barney that the manager no longer has enough female staff to meet the requests of those who want to be bathed and manually handled by female carers.

Sunshine House

Cherry Tree Lane

Timmerton

HR1 1UV

Dear Mr Hardy,

I am writing to you on behalf of my mother, Wendy Jones, who is a resident at Sunshine House. My mother has been cared for at home for some years, but recently had a stroke, and had to be admitted to Sunshine House for residential care. We made it very clear that she would not be comfortable being touched by male carers, and I am including my letter of last June where I outlined this requirement. Despite this, it has been drawn to my attention that my mother is being bathed by male carers, due to a ‘lack of female staff’. When I questioned this, I was told by the carer I spoke to, that my mother is ‘too old to notice’.

My mother is extremely upset and feels embarrassed and humiliated on a daily basis by being washed and touched by male carers. To have disregarded her wishes and subjected her to such treatment on a regular basis shows a lack of respect for her privacy and dignity. Furthermore, to do this on the basis that she is ‘too old to realise what is happening’ is to disregard her feelings because of an assumption that your staff should never have made. The distress she has endured is no less than a younger person would feel.

I believe this treatment of my mother constitutes a violation of Article 8 under the Human Rights Act, and is also discriminatory. Sunshine House has duties under the Human Rights Act not to treat residents in this way. I would be grateful if you could give this matter your urgent attention and that you make alternative arrangements for my mother’s bathing which will not involve the use of male carers. Because of the way it is affecting her, I would like to be certain that changes will be put in place with immediate effect. Please could you call or email me to let me know how the matter is being addressed. I would also appreciate a meeting with you to discuss the other issues I have raised concerning staff attitudes.

Yours sincerely

Barney Jones

**NOTE**:

This letter:

* Explains the background. It also sets out who is writing the letter and their relationship to the subject of the complaint.
* Outlines the impact on the individual, making it clear the extent of her suffering.
* Explains which specific rights have been violated,
* Explains that the public authority has duties under the HRA
* Suggests a resolution and sets out a reasonable timeframe for next steps

**The care home’s response**

Sunshine House

Cherry Tree Lane

Timmerton

HR1 1UV

3 November 2018

Dear Mr Jones,

Thank you for your letter regarding your mother’s care at Sunshine House.

We make every effort to ensure that residents at Sunshine House are as comfortable as possible, and while we understand that female residents may prefer to be bathed by female carers, unfortunately we do not currently have the resources to recruit more female staff. It is not therefore always possible for us to ensure that female residents are only bathed by female staff.

We do also note that Wendy has not herself complained about this.

Yours sincerely,

Mr Hardy

**Follow Up Letter**

Sunshine House

Cherry Tree Lane

Timmerton

HR1 1UV

Dear Mr Hardy,

Thank you for your response to my letter regarding my mother’s care at Sunshine House.

I would like to highlight that, under Article 8 of the HRA, a person has the right to respect for their private life. To disregard my mother’s wishes and force her to go through the daily ordeal of being washed by male members of staff shows a lack of respect for her privacy, physical integrity and her dignity, given how she feels about being touched by men.

Whilst it is the case that Article 8 is a qualified right, any interference with this right must be necessary and proportionate. I do not believe you have taken my mother’s rights into account and shown that your actions are proportionate. For example, have you considered other options available that are less restrictive of her rights, such as bathing female residents at different times of day when female staff are available?

As I outlined in my previous letter, my mother has found the whole experience extremely distressing. She has conveyed to me her embarrassment and humiliation – to the extent that I gather for the past week, she has refused to be bathed at all. This should indicate to you how much she has suffered under the measures you have put in place. I gather from other residents that there has also been a severe deterioration in her physical and emotional well-being.

I shall be visiting my mother on Tuesday of next week. I expect you to have taken action by that time to ensure that my mother is only bathed by female carers.

I would also like confirmation that you will be taking measures to inform your staff about their duties under the Human Rights Act, and a guarantee to address assumptions staff may have about the ability of those they are supposed to care for to experience normal human emotions. I shall be drawing this complaint to the attention of the local authority and expect a response from you – by email or phone – on receipt of this letter.

Yours sincerely,

Barney Jones

**NOTE:**

This letter:

* Addresses the direct points made in response to the original letter
* Strengthens the human rights case by drawing attention to what is required by Article 8
* Expands on the suffering of the individual whose rights are being violated
* Sets out a resolution and timeframe for next steps
* Outlines further action to be taken