



Human Rights Act 1998

A general guide to the Human Rights Act, with information about your human rights and what you can do if someone doesn't respect them. Applies to England and Wales.

Contents

Human Rights Act 1998.....	1
Overview	4
Quick facts	4
Please note	4
Terms you need to know.....	5
What is the Human Rights Act 1998?.....	8
Who needs to follow the Human Rights Act?	9
Why is the Human Rights Act important for someone with a mental health problem?.....	9
What are my rights under the Human Rights Act?.....	11
Articles 2, 3, 5, 6	12
Article 2: Right to life	12
Article 3: Prohibition of torture and inhuman or degrading treatment	13
Article 5: Right to liberty and security	15
Article 6: Right to a fair trial	16
Articles 8, 9, 10, 12, 14	18
Article 8: Right to a private and family life.....	18
Article 9: Freedom of thought, conscience and religion	19
Article 10: Freedom of expression	20
Article 12: Right to marry.....	21
Article 14: Right not to be discriminated against	22
Articles 1, 2, 3 of Protocol 1.....	23
Article 1 of Protocol 1: Right to property	23
Article 2 of Protocol 1: Right to education.....	24
Article 3 of Protocol 1: Right to vote	24
Make a complaint.....	26
What can I do if my human rights haven't been respected?.....	26
How do I take legal action?	26
What happens if my human rights claim is successful?.....	27
Useful contacts.....	29
Mind Legal Line	29
Civil Legal Advice	29
The Equality and Advisory Support Service.....	29
The Equality and Human Rights Commission.....	29
Inquest	29

The Law Society.....	30
Liberty.....	30
Local Mind.....	30
Find an advocate	30

Overview

In the UK, our human rights are protected by law. This law is called the [Human Rights Act 1998](#).

Quick facts

- The Human Rights Act gives you legal protection of your human rights, such as your [right to life](#), or your [right to a fair trial](#).
- There are 16 rights in total, and each one is referred to as a separate [article](#), for example, [Article 2: Right to life](#).
- You are protected under the Human Rights Act if you live in the UK. This includes if you are a foreign national, detained in hospital or in prison.
- All [public authorities](#) or [bodies exercising public functions](#) need to follow the Human Rights Act. However, individual and private companies do not.
- If your [human rights haven't been respected](#), you should first try to resolve it informally, then use a formal complaints procedure, and if that fails you can [take legal action](#) by going to court. You should always [get legal advice](#) before going to court.
- If a court agrees that your human rights have been breached, it can make a [declaration of incompatibility](#). The government would then decide whether the law needs changing as a result.

Please note

- This guide only covers the Human Rights Act from the point of view of a person with a mental health problem.
- This guide applies to England and Wales.
- This guide contains general legal information, not legal advice. We recommend you get advice from a specialist legal adviser or solicitor who will help you with your specific situation and needs. See [Useful contacts](#) for more information.
- The legal information in this guide does not apply to children unless specifically stated.

Terms you need to know

Term	Meaning
Absolute right	Absolute human rights cannot be taken away under any circumstances or for any reason. The right to a fair trial (Article 6) is an example of an absolute right.
Article	Each human right is referred to as a separate article in the Human Rights Act 1998 , for example, Article 2: Right to life. These articles come from the European Convention on Human Rights.
Capacity	'Capacity' means the ability to understand information and make decisions about your life. If you do not understand the information and are unable to make a decision about your care, for example, you are said to lack capacity.
Claim	<p>'Bringing a claim' means going to court to try to put right a breach of your legal rights, for example your human rights.</p> <p>You can also bring a claim in other areas of law.</p>
Court of Protection	The Court of Protection makes decisions and appoints deputies to act on your behalf if you are unable to make decisions about your personal health, finance or welfare.
Declaration of incompatibility	A court can make a declaration of incompatibility if it finds that a particular law has not obeyed the Human Rights Act 1998 . The government then looks at the law and decides whether it should be changed.
Human Rights Act 1998 (HRA)	This is a law that the government has brought in to protect our human rights in the UK.
Informal patient (also known as voluntary patient)	These are people who are staying in a psychiatric hospital but are not detained under the Mental Health Act . They should be able to come and go from the hospital within reason and are able to discharge themselves if they decide to go home.
Limited right	<p>Limited human rights can be restricted for specific reasons. Human rights can only be restricted if it is proportionate – that is, it must be for a fair and valid reason.</p> <p>For example, the right to liberty (Article 5) is a limited right. A person can be detained by the state for many lawful reasons including prison, mental health grounds and other reasons listed in the Article.</p>

Mental Health Act 1983 (MHA)	This is a law that applies to England and Wales which allows people to be detained in hospital (sectioned) if they have a mental illness and need treatment. You can only be kept in hospital if certain conditions are met.
Mental Health Tribunal (MHT)	<p>This is a special court that deals with cases relating to the Mental Health Act 1983. The Tribunal decides whether you can be discharged from your section and can decide about suitable aftercare and make recommendations about matters such as hospital leave, transfer to another hospital, guardianship and community treatment orders.</p> <p>The court is made of a panel, which normally includes:</p> <ul style="list-style-type: none"> • a legally qualified chairperson • a 'lay person' who has appropriate experience and qualifications in the area of mental health • an independent psychiatrist, who will speak to you and examine you before the tribunal hearing in certain circumstances, and when you request to see them <p>Where you see a reference to the Mental Health Tribunal in this guide, it means:</p> <ul style="list-style-type: none"> • First Tier Tribunal (Mental Health), if you live in England, or • Mental Health Review Tribunal for Wales, if you live in Wales.
Nearest relative	<p>This is a family member who has certain responsibilities and powers if you are detained in hospital under the Mental Health Act. These include the right to information and to discharge in some situations.</p> <p>The law sets out a list to decide who will be the 'nearest relative'. This can sometimes be changed.</p> <p>See our information on the nearest relative.</p>
Proportionate	Some human rights can be restricted. If they are restricted, it must be done in a 'proportionate' way. This means that it is appropriate and not excessive in the circumstances.
Public authorities	<p>These are organisations whose role is of a public nature. This includes:</p> <ul style="list-style-type: none"> • Police • NHS hospitals and employees • Local authorities and their employees

	<ul style="list-style-type: none"> • Some nursing and personal care accommodation providers • Prison staff • Courts and tribunals, including Mental Health Tribunals • Government departments and their employees • Statutory bodies and their employees (for example the Information Commissioner’s Office)
Public functions	<p>This means an act or activity taken by a public authority which is not a service. A public authority carries out a public function when it performs its particular legal duties and powers. Examples of public functions are licensing, planning and enforcement of parking.</p> <p>Public authorities can get private companies or voluntary organisations to carry out their public functions. So for example, a private company that run prisons and takes prisoners into custody would be considered a private company carrying out a public function.</p>
Qualified right	<p>This means that these rights can only be restricted when certain general conditions are met. This means your individual rights need to be balanced with the interests of the wider community.</p> <p>An example of this would be the government restricting your right to freedom of expression (Article 10) if you are encouraging racial hatred.</p>
Responsible clinician	<p>This is the mental health professional in charge of your care and treatment while you are sectioned under the Mental Health Act.</p>
Second Opinion Appointed Doctor (SOAD)	<p>This is a doctor who is called for a second opinion to decide whether they agree with your treatment if you are detained under the Mental Health Act 1983.</p> <p>The Mental Health Act sets out when the hospital should get a second opinion.</p>
Section	<p>In this guide, being 'sectioned' means that you are kept in hospital under the Mental Health Act. There are different types of sections, each with different rules to keep you in hospital. The length of time that you can be kept in hospital depends on which section you are detained under.</p> <p>See our information on sectioning.</p>

About the Human Rights Act

- [What is the Human Rights Act 1998?](#)
- [Who needs to follow the Human Rights Act?](#)
- [Why is the Human Rights Act important for someone with a mental health problem?](#)

What is the Human Rights Act 1998?

The Human Rights Act gives you legal protection of your human rights, such as your [right to life](#), or your [right to a fair trial](#).

- These rights come from the European Convention on Human Rights.
- Each right is referred to as a separate [article](#), for example, [Article 2: Right to life](#).

You are protected under the Human Rights Act if:

- you live in the UK. This includes if you are a foreign national, detained in hospital or in prison.

The Human Rights Act is important because:

- it sets out a minimum standard of how the government should treat you. It makes sure that they think about meeting your basic rights when they do their job. This includes when they use other laws.
- Parliament must think about whether a new law follows the Human Rights Act before it comes into force.



Example

Andrei is from South Africa but lives in London. He can use the Human Rights Act to protect his rights.

He cannot be locked up without reason. If he is [sectioned](#), the hospital must make sure that:

- the [Mental Health Act](#) is followed
- he is given reasons why he has been detained and an opportunity to challenge it.

This is because of [Article 5: Right to liberty and security](#).

Who needs to follow the Human Rights Act?

Who needs to follow the Human Rights Act?	Who doesn't need to follow the Human Rights Act?
<p>All public authorities or bodies exercising public functions.</p> <p>This includes:</p> <ul style="list-style-type: none"> • Police • NHS employees • Local authorities and their employees • Some nursing and personal care accommodation providers • Prison staff • Courts and tribunals, including First Tier Tribunals (Mental Health) • Government departments and their employees • Statutory bodies and their employees (e.g. Information Commissioner's Office) <p>You can bring a claim against public authorities or public bodies exercising public functions if you think they have not respected your human rights.</p>	<ul style="list-style-type: none"> • Individual people • Private companies (such as employers) <p>If you feel that your employer has discriminated against you because of your mental health problem, see our information on discrimination at work.</p>

Why is the Human Rights Act important for someone with a mental health problem?

If you are living with a mental health problem, it's important for you to know your rights under the Human Rights Act because:

- the law should comply with human rights
- you should be looked after and treated in a way which complies with human rights

- mental health, emergency services and social services must comply with human rights – this includes police and ambulance staff as well as doctors and nurses and social workers.

For example, knowing your rights under the Human Rights Act can be important if you are detained, or kept in hospital, under the [Mental Health Act](#).

Every year, more and more people are detained under the Mental Health Act. More than half of respondents to a Rethink survey in 2017 who had been detained in hospital said they felt had received degrading treatment.

Understanding your human rights can be a powerful way to question and change how you are looked after.

What are my rights under the Human Rights Act?

In total, there are 16 rights set out in the Human Rights Act:

[Article 2: Right to life*](#)

[Article 3: Prohibition of torture*](#)

Article 4: Prohibition of slavery and forced labour

[Article 5: Right to liberty and security*](#)

[Article 6: Right to a fair trial*](#)

Article 7: No punishment without law

[Article 8: Respect for your private and family life*](#)

[Article 9: Freedom of thought, conscience and religion*](#)

[Article 10: Freedom of expression*](#)

Article 11: Freedom of assembly and association

[Article 12: Right to marry*](#)

[Article 14: Prohibition of discrimination*](#)

[Article 1 of Protocol 1: Protection of property*](#)

[Article 2 of Protocol 1: Right to education*](#)

[Article 3 of Protocol 1: Right to free elections*](#)

Article 1 of Protocol 13: Abolition of the death penalty

The Articles in marked with an **asterisk** (*) are particularly important for people with mental health problems.

Articles 2, 3, 5, 6

- [Article 2: Right to life](#)
- [Article 3: Prohibition of torture](#)
- [Article 5: Right to liberty and security](#)
- [Article 6: Right to a fair trial](#)

Article 2: Right to life

This is an [absolute right](#). [Public authorities](#) must take reasonable steps to protect your life. They cannot take a person's life unless it is absolutely necessary, for example:

- to protect someone from unlawful violence
- to prevent someone escaping from detention
- to stop a riot.



Examples

- Ellie is detained in a psychiatric hospital because there was a risk that she would take her own life or harm herself. The hospital has a duty to protect Ellie's life, which includes making sure:
 - there are no areas in her room which could easily support a noose
 - the windows are secured
 - she is not easily able to leave the building
 - crisis rooms are on the lower floors of the building.

This duty also applies to people who are [informal patients](#).

- Melanie was an informal patient in a psychiatric hospital after attempting to take her own life. She was given home leave even though she was still unwell. She took her own life while on home leave and her parents brought a case. The court found that the hospital had failed in its duty to protect their daughter under Article 2.

If there has been a death involving public authorities, they must hold an independent investigation, which is usually an inquest.



Example

Jane died while detained under section 3 of the Mental Health Act 1983. This meant that there had to be a coroner's inquest so that the inquiry was independent of the hospital.

Article 3: Prohibition of torture and inhuman or degrading treatment

This is an [absolute right](#). A situation has to be very serious before it will be seen as inhuman or degrading treatment. This will depend on the circumstances of your situation, for example: age, health and how long you've been treated this way.



Example

Richard is detained under [section 3](#) of the [Mental Health Act 1983](#) because he has schizophrenia. His doctor thinks it is necessary for him to take antipsychotics which give him very unpleasant side effects. An independent psychiatrist (also known as a [SOAD](#)) has been to visit him and has agreed to the treatment plan. This would not breach Article 3.

Restraint will generally not be seen as torture and ill-treatment unless too much force is used, or it is used to limit your movement in a way other than to protect or prevent further damage.



Example

Elspeth was strapped into a wheelchair for long periods of time to prevent her wandering off and leaving the hospital. She was very distressed and the nurses were informed that this could be degrading treatment.

The government must make an independent investigation if there are allegations of abuse by people working in [public authorities](#). An example of this was the [Winterbourne Inquiry](#).



Example

Joan lives in a care home. She is unable to get out of bed. The staff do not change her bedding regularly so they are soiled.

She is unable to lift herself up and the staff leave trays of food without helping her to eat.

Both are examples of possible breaches of Article 3: Prohibition of torture and inhuman or degrading treatment.

Article 5: Right to liberty and security

This is a [limited right](#). You have a right to move around as you want and not be locked in a room or building. However, this right can sometimes be limited by the law, for example if a person is arrested or detained on mental health grounds.

If you are not free to leave, and you are under continuous control and supervision, then you are likely deprived of your liberty (i.e. your right to liberty has been limited).

If this happens:

- it must be done lawfully; and
- there must be safeguards so you can challenge whether it is lawful or not to deprive you of your liberty.

For example, a safeguard for when you are sectioned under the Mental Health Act is being able to apply to the Mental Health Tribunal (MHT) to challenge your detention.

Even if you are arrested or detained on mental health grounds, you still have these rights:

If...	What are your rights?
your liberty is taken away (for example if you are sectioned)	You can go to court to challenge whether or not the decision was lawful. So if you are detained under the Mental Health Act 1983 , you can ask the Mental Health Tribunal to look at whether your detention was fair. For more information about this, you should contact your advocate or find a solicitor. See Useful contacts for more information.
you are arrested	You must be given the reasons why in a language that you can understand.
you are arrested or detained on suspicion of committing an offence	You are entitled to be brought in front of a judge promptly.



Examples

- Jason applied for a [Mental Health Tribunal](#) whilst on a [section 3](#). Tribunals normally take place 8 weeks after an application is made, but Jason's case was not heard for 20 weeks after he applied.
- Jessica was detained on section 3 despite her father, who was acting as her [nearest relative](#), having objected to it.
- John was discharged from his section by a Tribunal but there were very long delays in returning him to the community because accommodation could not be found.

These could all amount to breaches of Article 5: Right to liberty and security.

Article 6: Right to a fair trial

This is an [absolute right](#). To be considered **fair**, a hearing should address the following:

Independent and impartial	The hearing must be fair and free from bias.
Notice	You must be given notice of the time and place of a hearing.
Public or private hearings	Hearings are normally in public but can be in private for many reasons. Mental Health Tribunal are normally held in private.
As soon as practicable	The hearing should take place as soon as is practicable.
Representation	If your hearing is at the Tribunal, you can present your case either by yourself, with an advocate or a specialist legal adviser. You can normally get legal representation for free. See Useful contacts for more information.

<p>Right to see documents</p>	<p>You have a right to see all the documents in the proceedings. This doesn't necessarily mean you can all documents related to you – only those that assist you in effectively challenging your detention.</p> <p>For example, if you are being medicated without your knowledge because the doctor thinks it is for your own health and safety, you may not see documents related to this, as it would be bad for your health. You may only be able to see them if you needed to in order to effectively challenge your detention.</p>
<p>Reasons for decision</p>	<p>You have a right to be given reasons for a decision so that you can understand why the decision was made.</p>



Examples

- Jean was transferred to a psychiatric home and the Local Authority went to the [Court of Protection](#) for an order to keep her there without consulting her or her family. This could be a breach of Article 6: Right to a fair trial.
- A doctor who was working on a Tribunal went to see a patient before the hearing. However, he also worked as a [responsible clinician](#) for a different hospital in the same trust. This is not a breach of Article 6: Right to a fair trial.

Articles 8, 9, 10, 12, 14

- [Article 8: Respect for your private and family life](#)
- [Article 9: Freedom of thought, conscience and religion](#)
- [Article 10: Freedom of expression](#)
- [Article 12: Right to marry](#)
- [Article 14: Right not to be discriminated against](#)

Article 8: Right to a private and family life

This is a [qualified right](#), which includes:

- respect for your sexuality
- the right to make choices for yourself, and the right to have your body and mind respected
- respect for private and confidential information, particularly the storing and sharing of this information (in the UK this is largely covered by the Data Protection Act 1998: see [our information on accessing your personal information](#))
- the right not to be followed or recorded by the government, when the government has no legal right to do so
- the right to have confidential and unlimited communication with others
- the right to control how information about your private life is shared, including photographs that have been taken secretly
- being able to see friends and family.

It can be limited if it is part of the law, 'necessary in a democratic society' and for one of the following 'legitimate aims':

- in the interests of national security
- in the interest of public safety
- for the economic well-being of the country
- for the prevention of disorder or crime
- for the protection of health or morals
- for the protection of the rights and freedoms of others.

The ban on smoking in hospitals is not a breach of Article 8.



Examples

- Jenny was promised that her care home would be her 'home for life' but the council decided to close it down and to move her somewhere else.
- Juan was detained in hospital under [section 3](#). He was not given any information about the section or his right to go to a Tribunal to challenge the decision to keep him in hospital.
- Julie was detained in hospital under [section 2](#). Her neighbour telephoned her doctor to see how she was. The doctor gave her neighbour information about her diagnosis, medication and treatment.
- Jon was not allowed to see his partner while he was in hospital.

These are all possible breaches of Article 8: Right to a private and family life.

Article 9: Freedom of thought, conscience and religion

This is a [qualified right](#) which includes:

- the right not to believe in anything
- non-religious beliefs like veganism and pacifism
- the freedom to change your beliefs at any time
- not being forced to believe in something.

It can be limited where it is necessary and fair in order to protect:

- public safety
- public order
- health or morals
- the rights and freedoms of other people.



Examples

- Jada has been told that the only bed available is on a mixed ward and that the only doctor available to give her a medical examination is male. This is against her religion.
- Judeana is detained under section 3. The hospital has not provided her with kosher food.

These could be breaches of Article 9: Freedom of thought, conscience and religion.

Article 10: Freedom of expression

This is a [qualified right](#) which lets you hold opinions and express them freely:

- verbally
- in writing
- through television, radio or the internet.

Freedom of expression includes freedom of the media to report court proceedings. However, this freedom may be restricted for health reasons, or if it affects other human rights such as privacy or fair trial.

Proceedings involving people with mental health problems, for example at the [Mental Health Tribunal](#), are usually in private.



Example

Marco is due to have a hearing in the [Court of Protection](#). These normally take place in public, so if it wants to protect Marco's right to privacy the Court of Protection has to make an order for anonymity (an order to stop anyone using details which might identify the parties in a case, such as their name). An order of anonymity might be used if someone involved in a case is particularly vulnerable. The Court has to balance Marco's right to privacy with the media's right to report the information.

Article 12: Right to marry

Article 12 is a [qualified right](#) which allows people to marry under English law.

Certain patients who are detained under the [Mental Health Act 1983](#) are not able to get married or enter into a civil partnership.



Example

Julian was detained under [section 2](#). He was not able to enter into a civil partnership until he was allowed to go back into the community or put on a [section 3](#).

This is not a breach of his rights under Article 12: The right to marry.

Article 14: Right not to be discriminated against

This is a [limited right](#) which protects you from discrimination on any of the following grounds:

- sex
- race
- colour
- language
- religion
- political or other opinion
- national or social origin
- **other status** – this includes disability.

But you can only use this Article if another human rights Article has been engaged.



Examples

- Jeanie has been detained under [section 3](#). She is not allowed to smoke while in hospital. She is not allowed to leave the hospital grounds. The ban on smoking in hospitals is not discrimination because it does not engage [Article 8: the right to private and family life](#).

If you feel that you have been discriminated against because of your mental health problem, you would normally use the Equality Act 2010: [see our information on discrimination](#).

Articles 1, 2, 3 of Protocol 1

- [Article 1 of Protocol 1: Right to property](#)
- [Article 2 of Protocol 1: Right to education](#)
- [Article 3 of Protocol 1: Right to vote](#)

Article 1 of Protocol 1: Right to property

This is a [qualified right](#) that protects your right to property. Property includes:

- land
- houses
- money
- pensions
- some welfare benefits.

If you have a mental health problem, the right to property may be relevant to you in the following situations:

- Where public sector landlords or local authorities are discriminating against you in relation to housing.
- Where your benefits assessments and/or payments are carried out incorrectly or in a discriminatory way.
- Where your possessions are lost by state institutions, such as in care homes or hospitals.



Example

Janelle has been told by the local authority landlord that she is not allowed to stay in her flat because she has depression.

This could be a breach of her rights under Article 1 of Protocol 1: Right to property.

Article 2 of Protocol 1: Right to education

This is a non-absolute right which protects the right to education and makes sure that students have access to education and teaching.

This includes:

- The right to go to school, university or other education institution.
- The right to get official recognition when studies have been completed, like a certificate of completion or university degree.

The right to education is particularly important when it comes to children and young people with mental health problems. No child or young person below the school leaving age should be denied access to education just because they are receiving medical treatment for a mental health problem.



Example

James is a 14 year old boy detained under [section 3](#). He is not allowed to go to school and does not receive any education.

This could be a breach of his right to education.

Article 3 of Protocol 1: Right to vote

This right can be restricted by law, for example, the minimum age to vote is 18 and people serving a prison sentence are not able to vote.

If you have mental health problems or are detained under the [Mental Health Act 1983](#), **you do have the right to vote.**



Example

Joseph is detained under [section 3](#). He has been told that he is not allowed to vote in the next elections. This could be a breach of his right to vote.

Make a complaint

- [What can I do if my human rights haven't been respected?](#)
- [How do I take legal action?](#)
- [What happens if my human rights claim is successful?](#)

What can I do if my human rights haven't been respected?

If you think that a [public authority](#) or a body exercising [public functions](#) has not respected your human rights in one of the ways listed in the Human Rights Act, there are several things you can do.

Resolve it informally

Sometimes a problem can be sorted out by speaking with the person or organisation involved, with the aim of resolving it without having to follow a formal process. An advocate may be able to help you if you would like support in doing this. You can get more information about finding an advocate in [Useful contacts](#).

Use a complaints procedure

All public authorities have formal complaints procedures. For example, the NHS and local authority social services have complaints procedures, which allow a person to go to the Ombudsman if the complaint cannot be resolved: [see our information on complaining about health and social care](#).

Take legal action

You can take a case to a court or tribunal, or you could rely on your human rights in another legal proceedings involving a [public authority](#) that you are already involved in, for example, judicially review their decision. For example, [see our information on complaining about health and social care](#).

How do I take legal action?

Show that you are a 'victim'

To bring a [claim](#), firstly you need to show you are a 'victim'. This is a legal term, which means you must show your human rights have been directly affected by:

- something that someone has done (an act), or
- something they haven't done (an omission).

Taking legal action

If you want to take legal action, you should:

- **Seek advice.** It is always important to get good legal advice about your situation before going to court. See [Useful contacts](#) for information on how to find legal help.
- **Get advice as soon as possible.** There are very strict deadlines for bringing a [claim](#). It is very important that you get advice as soon as possible.
- **See if you can get legal aid.** In some cases, legal aid is available. This means that you can get help paying for your legal fees. To see whether you can get legal aid, you should speak to a specialist legal adviser, or you could also use this online legal aid check from the [gov.uk website](#). See [Useful contacts](#) for information on how to find a specialist legal adviser.
- **See if you can get support.** Taking legal action can be complicated and stressful. If you want assistance and support, you could ask an advocate to help you. Read more about advocacy, and other ways you can get support and assistance, in [Useful contacts](#).

What happens if my human rights claim is successful?

If you have gone to court to challenge a particular law that has breached your human rights, and the court agrees with you, it can make a [declaration of incompatibility](#). This means that the law has not obeyed the [Human Rights Act 1998](#). The government then looks at the law and decides whether it needs to be changed.



Real life example

In 2001, a court decided that the Mental Health Act 1983 did not follow the Human Rights Act. Under that law, it was up to a patient to show that they no longer needed to be detained because of their mental health problem. This meant that it was up to the patient to prove that they could leave the hospital, otherwise they had to stay.

After the court's decision, the government changed the law so that it was up to hospitals to prove that a patient should stay in detention. This means that now, you are free to leave the hospital unless the hospital can show that you need to stay.

If the court has found that a [public authority](#) has made a decision that doesn't follow the Human Rights Act, the court can:

- cancel the decision, or
- prevent a public authority from acting in a certain way.

In most situations, if a decision is found to be unlawful, the court will send the issue back to the public authority to make the decision again. They can also award you money, though this depends on the facts of the case.

Useful contacts

Mind Legal Line

PO Box 277
Manchester
M60 3XN
0300 466 6463 (Monday to Friday, 9.00 am to 5.00 pm)
legal@mind.org.uk

The Mind Legal Line can provide you with legal information and general advice.

Civil Legal Advice

0845 345 4345
gov.uk/civil-legal-advice

The Civil Legal Advice can tell you if you're eligible for legal aid and can give you free and confidential legal advice in England and Wales.

The Equality and Advisory Support Service

Tel: 0808 800 0082
Text: 0808 800 0084
Monday to Friday 9am-8pm
Saturday 10am-2pm
equalityadvisoryservice.com

The helpline can advise and assist you on issues relating to equality and human rights, across England, Scotland and Wales.

The Equality and Human Rights Commission

equalityhumanrights.com

The Equality and Human Rights Commission is responsible for promoting and monitoring human rights, and to protect, enforce and promote equality.

Inquest

020 7263 1111
inquest.org.uk

INQUEST provides specialist advice on cases involving a death in custody or detention or involving state failures. This includes a death that has occurred in prison, police custody or immediately following police contact, immigration detention or psychiatric care. You can get advice by submitting a [query form](#).

The Law Society

020 7242 1222 (England)

029 2064 5254 (Wales)

lawsociety.org.uk

The Law Society provides details of solicitors you can get in touch with for specialist legal advice.

Liberty

Tel: 0845 123 2307  or 020 3145 0461

Lines are open Monday and Thursday 6.30pm - 8.30pm, Wednesday 12.30pm - 2.30pm

liberty-human-rights.org.uk/

Liberty provides human rights advice by telephone and in writing. You can get written advice by submitting a [query form](#).

Where can I get support?

Local Mind

Local Minds support over 280,000 people across England and Wales. Their services include supported housing, crisis helplines, drop-in centres, employment and training schemes, counselling and befriending. They may be able to help you find advocacy services in your area.

Find your local Mind [here](#).

Find an advocate

An advocate is a person who can both listen to you and speak for you in times of need. Having an advocate can be helpful in situations where you are finding it difficult to make your views known, or to make people listen to them and take them into account.

For information on advocacy services and groups in your area, you could start by contacting the [Mind Legal Line](#) and your [local Mind](#).

Read more about how [advocacy](#) might help you.

To be revised in 2019.