



# The importance of human rights in health and social care



**This explainer set out the key protections provided by the Human Rights Act 1998, and why they are so important to health and social care.**

The Human Rights Act 1998 provides important human rights protections for individuals, including disabled people, people living with long term conditions and unpaid carers. This explainer outlines why human rights protections are so important in the delivery of health and social care services, by highlighting two specific areas of protection provided by the current Human Rights Act 1998.

## The importance of positive obligations

Under the Human Rights Act 1998, public bodies have a duty (legal responsibility) to take positive steps to protect a person's rights when they are at risk of serious harm or loss of life. This means that public bodies (such as local authorities, healthcare professionals and social workers) can take steps to eliminate barriers to people's human rights, rather than waiting for rights to be breached and taking steps afterwards. This is known as a positive obligation. Positive obligations are a vital part of our human rights framework and help people to live a life of dignity.



## Positive obligations: an example

A positive obligation could mean care home staff intervening when a resident is struggling to breathe. If they don't act to protect the resident, they may breach Article 2 of the Human Rights Act which protects a person's right to life.

If positive obligations were not legally applicable there are concerns that public bodies will not take the necessary action to protect people's physical and mental wellbeing. Positive obligations are important for disabled people and people living with long term conditions, and any reduction of this obligation would impact negatively upon their care and support.


## The Section 3 duty

Section 3 is a key component of the human rights legal framework in the UK. It means that anyone interpreting our laws must do so in a way that upholds our rights so far as possible. This includes the Government, courts, tribunals, and public bodies (including local authorities, healthcare professionals, and social workers). This has led to human rights becoming increasingly embedded across law, policy and the delivery of public services.

Section 3 applies to all laws, including those that were passed before the Human Rights Act came into force. It is used by people to challenge the application of blanket laws and policies which fail to consider a person's human rights. It is also used by public bodies as a framework for navigating laws and to balance competing human rights considerations to ensure people's human rights are protected and that people and staff are safe.

Without this provision public bodies would not be required to apply laws in a way that protects our human rights. The ability of the Government, courts, and tribunals to interpret legislation in a way that is compatible with human rights would also be limited without this provision.

The ALLIANCE believes that human rights should underpin all law and policy. Section 3 provides clarity and certainty around how our human rights will operate in law, policy and practice.



## Further reading and resources

**Read our explainer on the Human Rights Act 1998 and its foundation to our human rights protections in Scotland.**

Sign up to our human rights mailing list to keep up to date on our work on human rights, including opportunities to get involved. Email [gillian.mcelroy@alliance-scotland.org.uk](mailto:gillian.mcelroy@alliance-scotland.org.uk) to register.

