



Joint Committee on Human Rights

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From Rt Hon Harriet Harman MP, Chair

Gillian Keegan MP
Minister of State for Care and Mental Health
Department of Health and Social Care
39 Victoria St,
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By email

20 May 2022

Dear Gillian,

Thank you for recently providing oral evidence to the Committee on the protection of human rights in care settings. In the [evidence session](#), Michelle Dyson, Director General for Adult Social Care, appeared to suggest that where care homes received any public funding towards an individual's provision, that care home was subject to the Human Rights Act (HRA) for its services in relation to all residents. This is not how we understand the law to operate and hoped you might be able to provide some clarification.

Our understanding is that the Care Act 2014, in s.73, extends the application of the HRA to care home residents that have had their care funded or arranged by local authorities. However, only these individuals are covered by the extended scope of the HRA. A resident who is entirely self-funding, and who has not had their care arranged by a Local Authority, would not have access to the same protections. Similarly, residents placed in private care settings by the NHS where their care is funded by Continuing Health Care are not covered by s 73.

We understand that the protections provided by s.73 are personal to the resident in question. The fact that one resident might be able to rely upon the HRA to challenge actions of the care home does not automatically turn the care home into a public body so as to enable other, self-funding, residents to rely upon the HRA.

We would be very grateful if you could confirm whether or not you share our understanding of the law as it stands. If so, we would also welcome an explanation as to why the discrepancy in protection exists.

We would be grateful if you could respond to us by 06 June 2022.

Yours sincerely,

Rt Hon Harriet Harman MP
Chair of the Joint Committee on Human Rights