



Ministry
of Justice

The Right Honourable
Dominic Raab MP
Deputy Prime Minister
Lord Chancellor & Secretary of
State for Justice

OFFICIAL

Rt Hon Harriet Harman MP

Chair of the Joint Committee on Human Rights
House of Commons
London
SW1 0AA

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14 December 2021

Dear Harriet,

A CONSULTATION TO REFORM THE HUMAN RIGHTS ACT 1998

I am pleased to confirm that the Government has launched today a consultation on proposals to reform the Human Rights Act 1998, including legislating for a Bill of Rights. I wanted to share with you the options on which we are consulting as I recognise you have a strong interest in this area. The consultation is publicly accessible here: <https://consult.justice.gov.uk/human-rights/human-rights-act-reform>.

The UK's tradition of human rights and civil liberties stretches back over the centuries. There are many international instruments and treaties on human rights, first and foremost amongst these was the UN Universal Declaration of Human Rights shortly followed by the European Convention on Human Rights (the Convention). The Human Rights Act 1998 embedded the rights within the Convention within UK domestic law. Over the years there has been mission creep which has resulted in human rights law being used for more and more purposes, including at the expense of the interests of wider society.

The Government is committed to protecting and respecting human rights and has a longstanding tradition of ensuring rights and liberties are protected domestically, and of fulfilling our international human rights obligations. The UK is also committed to remaining party to the European Convention on Human Rights. However, reforms are needed to ensure that the Human Rights Act meets the needs of the society it serves and commands public support.

The revised legislation, will make sure a proper balance is struck between individuals' rights, personal responsibility and the wider public interest. It will strengthen the role of the Supreme Court of the United Kingdom in the exercise of the judicial function, preserve Parliament's democratic prerogatives in the exercise of the legislative function, and support the integrity of the United Kingdom while respecting the devolution settlements. Furthermore, the Government wants to make sure the Bill of Rights fully reflects the different interests and legal systems in different parts of the UK. We are continuing to engage stakeholders in Scotland, Wales and Northern Ireland as to how that can be achieved.

In developing the consultation, we have considered both the report of the Independent Human Rights Act Review (IHRAR) and the Joint Committee Human Rights' (JCHR) report on IHRAR published on 8 July. For the reasons we are setting out in detail in the consultation document, we respectfully disagree with the JCHR's conclusion that there is no case for changing the Human Rights Act, and that to amend the

Human Rights Act represents a risk to our constitutional settlement. The improvements to our human rights framework will support the integrity of the UK, while respecting the devolution settlements.

The JCHR's report also contains certain recommendations under the heading 'Enforcing and embedding rights' which are outside the scope of the consultation. The JCHR recommends that:

- the government look at ways to spread best practice in human rights compliance across the public sector including through training and information programmes; and
- the role of the Equalities and Human Rights Commission (EHRC) in enforcing rights must be strengthened by allowing them to undertake investigations into named bodies for possible breaches of the Human Rights Act and to provide legal assistance in Human Rights cases.

We have considered these proposals but do not consider them priorities to take forward at the present time and in the context of the proposed reforms to the Human Rights Act. The EHRC already has a range of important human rights powers and duties. It is accredited at the United Nations with "A" status by the Global Alliance of National Human Rights Institutions. This means it fully meets the requirements to protect human rights in Great Britain including carrying out inquiries, where appropriate. The 2018 Tailored Review did not recommend that human rights enforcement powers were necessary for the EHRC; and argued that the EHRC should focus on resolving issues of effectiveness and impact.

The UK continues to have strong protections within a comprehensive and well-established constitutional and legal system. These protections mean that individuals can uphold their rights in a UK court, with legal aid available for cases that are within scope, and for those that aren't, funding may still be available through the Exceptional Case Funding scheme. In addition to this, the EHRC continues to have the power to provide legal assistance to victims of discrimination, which can include the provision of legal representation and assistance to individuals in cases with an equality and human rights element.

The JCHR also recommends that the Government takes the opportunity to review the means testing for legal aid to consider how best to ensure that people are able to vindicate their human rights in court. The Legal Aid Means Test Review is currently assessing the effectiveness with which the legal aid means testing arrangements protect access to justice. The review will be published shortly, with an accompanying consultation.

The consultation will last for 12 weeks, and during this period, the Government is seeking views on the key aspects of these reforms and the proposals set out in full in the consultation document. After we have received and considered the responses, we will in due course put forward legislative proposals to Parliament to revise the Human Rights Act and replace it with a Bill of Rights.

The IHRAR panel's report is also being published today, alongside the consultation document. The report is publicly available online here: <https://www.gov.uk/guidance/independent-human-rights-act-review>.

If you would like to discuss our proposals further, Lord Wolfson or I will be available to meet with you during and after the consultation period.

Yours sincerely



RT HON DOMINIC RAAB MP