

Written evidence from West Yorkshire Network of the British Association of Social Workers (HRA0057)

We are a network of social workers working or living in West Yorkshire, connected by the British Association of Social Workers (BASW). The network is composed of social workers who work directly with children, families and adults, as well as social work students and educators. We strongly believe that the Human Rights Act (HRA) is central to our professional identity and we want to share our experiences with the Joint Committee on Human Rights to ensure our voices, and the voices of those we support, are heard in the Independent HRA Review.

A survey of our members was conducted to establish how we feel about the HRA.

100% of respondents said the HRA, with its current rights and legal duties to uphold them, was important to them. Everyone said the HRA is important for themselves and the people they care about as it helps them raise concerns with public bodies when they feel their rights are not being upheld. All respondents also said that as a staff member in a public authority, the HRA helps them to ensure the rights of the people accessing their support are protected.

Why the HRA is important to us

“The HRA, for me, is about giving me assurance that no government will stray too far into places I feel it shouldn’t be.”

“Without the HRA there is a risk that respect for human rights will fall away and everyone will inevitably be worse off.”

“The Human Rights Act is rooted in social justice and enables social workers to challenge public body decision making that affects individuals, families and communities.”

100% of respondents said they have either used the HRA for positive change, or they were aware of it being used by others for positive change. Those who had used the HRA said it had helped them to change decisions or policies that support people in their everyday lives. Our network members talked about Articles 3, 5 and 8 being particularly important to their work. They said the HRA has helped them to prevent people being moved from their homes, keep families together and lessen restrictions on people’s freedom.

Everyone who responded to the survey said they are worried that there will be less protection of rights if the Government makes changes to the HRA following this review in the current context.

Our message for the Independent HRA Review

“It is unclear what the motivation is for this review.”

“I don’t see the need to alter [the HRA] in any way shape or form.”

“The Human Rights Act is the effective legal remedy for the risk to or abuse of rights. The Articles within the Act successfully ensure families remain together and that state interference has to be justified and can be challenged by individuals if they object.”

“The HRA works well and it is an essential piece of legislation.”

Has the Human Rights Act led to individuals being more able to enforce their human rights in the UK? How easy or difficult is it for different people to enforce their human rights?

Respondents said the HRA has enabled individuals to know and assert their rights. Members said the HRA has helped speed up the process of raising a legal challenge, particularly with regards to determining whether someone is deprived of their liberty unlawfully.

One respondent referred to a survey of 92 best interests assessors who complete Deprivation of Liberty Safeguards assessments. This research cited examples of BIAs considering Articles 5 & 8 which led to positive outcomes for people including returning home from inappropriate care placements, reducing restrictions and increasing contact with families (Hubbard, 2017).

Some respondents felt the HRA could be used more if more people were aware of how the law can be used to protect and enhance their quality of life.

How has the operation of the Human Rights Act made a difference in practice for public authorities? Has this change been for better or worse?

Respondents unanimously reported positive change amongst public authorities because of the HRA, and spoke of it being foundational in their individual practice and organisational culture.

What has been the impact of the Human Rights Act on the relationship between the Courts, Government and Parliament?

Respondents valued the role of the courts in ensuring that the government *“has some checks and balances in place to protect our rights and freedoms”*.

There were concerns about any alteration of this relationship which would limit the Courts' authority and spare Parliament from scrutiny - *“if Parliament prevents the courts from finding its decisions unlawful, this will prevent people seeking and accessing effective remedy”*.

Has the correct balance been struck in the Human Rights Act in the relationship between the domestic Courts and the European Court of Human Rights? Are there any advantages or disadvantages in altering the relationship?

Respondents feel this relationship is right and the balance is currently correct.

Are there any advantages or disadvantages in seeking to alter the extent to which the Human Rights Act applies to the actions of the UK (or its agents) overseas?

Respondents said there would be disadvantages as it would be likely that any changes would weaken the safeguards provided by the HRA.

We ask that the JCHR recognises that the HRA in its current form should not be diluted, and strongly communicates this to the Government. For social workers, the HRA is fundamental. Any weakening of the protection it offers people would be a failure of this Government to care for its citizens.

21/03/2021