



Human Rights and Carers



“Where, after all, do universal human rights begin? In small places, close to home [...] Unless these rights have meaning there, they have little meaning anywhere.”

—Eleanor Roosevelt

Human Rights Act (1998) protects 16 different rights

Right to life
(Article 2)

Right not to be tortured
in an inhuman or
degrading way
(Article 3)

Right to be free from
slavery or forced labour
(Article 4)

Right to liberty
(Article 5)

Right to a fair trial
(Article 6)

Right not to be punished
for something which
wasn't against the law
when you did it
(Article 7)

Right to respect for
private and family life,
home and
correspondence
(Article 8)

Right to freedom of
thought, conscience and
religion
(Article 9)

Right to freedom of
expression
(Article 10)

Right to freedom of
assembly and association
(Article 11)

Right to marry and found
a family
(Article 12)

Right to not be
discriminated against in
relation to any of the
human rights listed here
(Article 14)

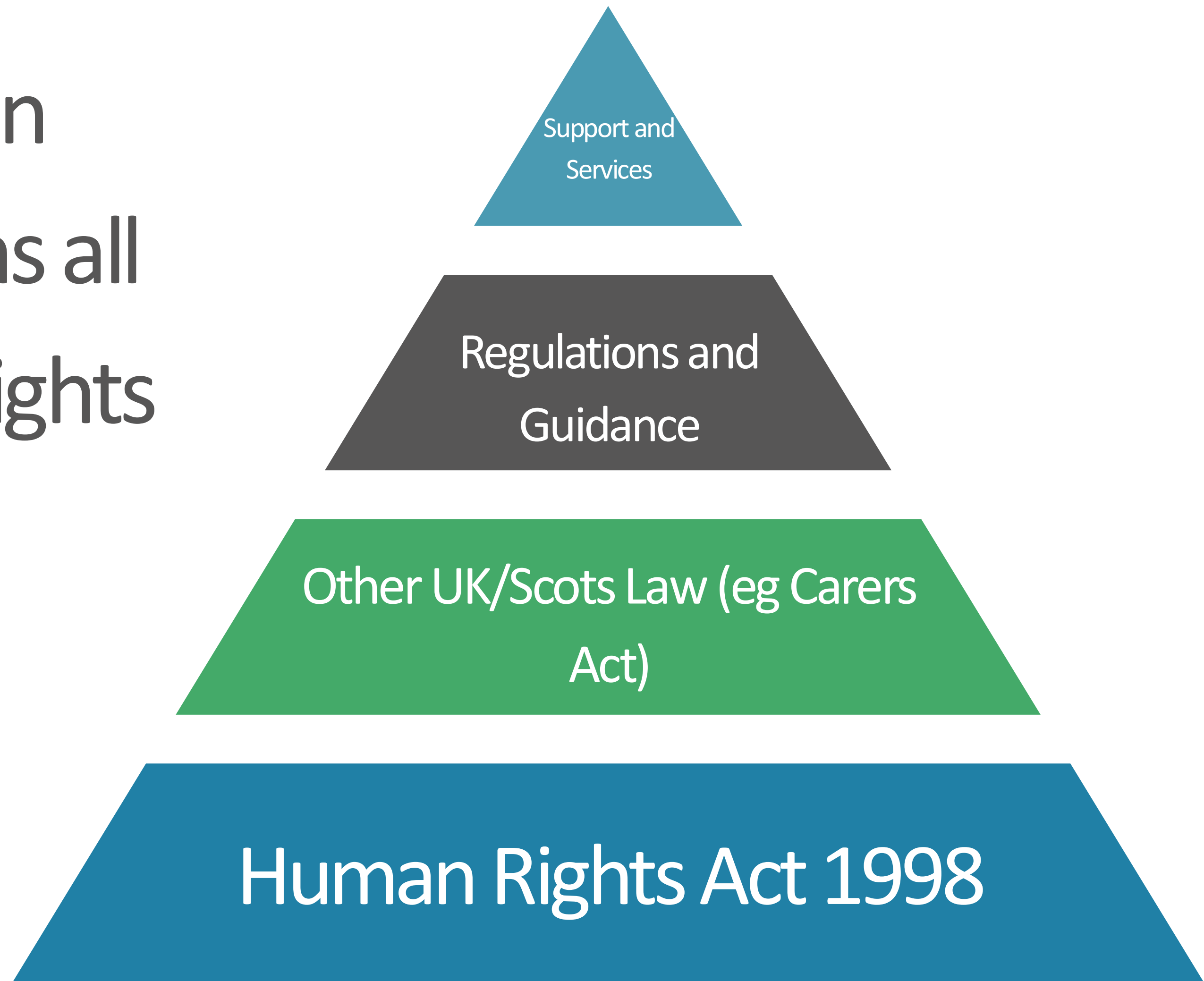
Right to peaceful
enjoyment of possessions
(Article 1, Protocol 1)

Right to education
(Article 2, Protocol 1)

Right to free elections
(Article 3, Protocol 1)

Abolition of the death
penalty
(Article 1, Protocol 13)

A carer's human rights underpins all of their other rights as a carer.



What does the Human Rights Act mean for carers?

Article 2

The right to life

Article
3

Freedom from inhuman and degrading treatment

Article
8

The right to respect for private and family life, home and correspondence

Article
14

The right to be free from discrimination (also protected by Equality Act 2010)

Article 8: Right to respect for private and family life, home and correspondence

PRIVATE LIFE	FAMILY LIFE	HOME	CORRESPONDENCE
<p>Protects your right to: Private information, including access to personal information and to have that information confidential.</p> <p>Wellbeing including physical and mental health</p> <p>Autonomy Which is about having control over your own body and life, and being able to participate in decisions about yourself (eg in your care and treatment)</p> <p>Being able to participate in the life of your community</p>	<p>You have the right to: Develop family relationships and to maintain contact with your family.</p>	<p>This is not a right to housing, but a right to respect for the home that you have already. This right protects you from your home life being interfered with, eg unlawful surveillance, arbitrary evictions, or being removed from your home to receive health or care services.</p>	<p>This right covers all forms of communications For example letters, emails and phone calls. It protects the right to communicate with people and to have that communication as private.</p>

Examples of when a carer's right to private and family life might be at risk

If the carer experiences poor mental health as a result of not being able to access medical treatment or not being able to recover fully from medical treatment due to their caring responsibilities.

If the local authority doesn't provide the carer with proper support – for example with adequate breaks from caring and an appropriate assessment of the carers needs.

If carer experiences poor wellbeing as a result of the physical and mental consequences of caring

If the carer experiences loneliness and isolation because caring means they may have few opportunities to participate in a social life.

If a carer experiences loss of privacy and family life because their loved one is moved into residential care against the wishes of the person or carer, or moved to a facility far from where the carer lives.

Case Study

Article 8:

Right to private and family life

Helena, a disabled woman, was told by her occupational therapy department that she needed a special ('profile') bed. She was unable to leave her bed and this new arrangement would allow carers to give her bed baths. Helena requested a double bed so that she could continue to sleep next to her husband. The authority refused her request, even though she offered to pay the difference in cost between a single and double bed. A stalemate ensued for 18 months until the woman was advised by the Disability Law Centre to invoke her right to respect for private and family life. Within three hours of putting this argument to the authority, it found enough money to buy the whole of her double profile bed. Writing to Disability Now, the woman explained that 'It has made a phenomenal difference to my life. If something similar happened in future, I would have no hesitation in using the [Human Rights Act] again'.

(Disability Now, June 2006, p 14.)

Article 8 is not an absolute right

Your Article 8 rights can be restricted. But any interference must meet the 3 tests:

Lawful



There must be a law that allows officials to take that action.

Legitimate



There must be a legitimate aim the public official is trying to achieve (e.g. public safety)

Necessary



All alternative ways of achieving the aim must have been considered and the one chosen must be proportionate.

Article 2: Right to life

Article 2 gives you the right to have your life protected

Public authorities must not take away your life.

Public authorities must take reasonable steps to protect your life.
(where they know it may be in danger)

The right to life is an **absolute** right and the state has a strong duty to protect it.

Case Study

Article 2:

Right to life

A 40 year old disabled man with complex health needs was having difficulty breathing. The doctor, who did not know this man properly, would not put him on a ventilator. He suggested to the man's parents (who were his primary carers) that perhaps it was their son's "time". The family told the doctor that they did not agree with his decision as their son had rallied round several times before from the "brink of death". The parents were distraught at the doctor's refusal to reconsider his decision. After trying everything else, the parents asked a support worker for help. The support worker advised them to challenge the doctor's decision and ask whether he had considered their son's right to life in coming to his decision. As a result of their challenge, the doctor re-assessed the decision and provided their son with a ventilator without the need for a second opinion. Two months later, the man was alive and well and off the ventilator.

Article 3:

Right to be free from inhuman and degrading treatment

Article 3 covers treatment which causes you to experience extreme physical or mental pain and suffering

Public authorities must not allow you to be treated in a way which causes you to suffer to this extent.

If they are aware that this may be a risk – they have a duty to step in and take action.

This right is **absolute**, therefore, there can never be any justification for failing to act.

Case Study

Article 3:

Right to be free from
inhuman and
degrading treatment

A parent carer is awaiting surgery for a serious back problem but continues to help her disabled daughter to shower, even though this puts the parent carer at risk of permanent back damage. The parent carer feels she has no choice because her local authority withdrew the two care staff who had previously provided help (after an assessment said it was too risky for the health of the care workers' backs). All this could be avoided if the local authority authorise for an adapted shower to be installed, but unfortunately, the family have been on the waiting list over a year.

If your rights are being denied

1

IDENTIFY WHICH RIGHTS ARE BEING DENIED

Use your human rights knowledge to decide which rights are involved.

2

ARE THESE ABSOLUTE RIGHTS?

If they are absolute rights raise this immediately with the public service using human rights language.

3

ARE THESE NON-ABSOLUTE RIGHTS?

If they are non-absolute, is the restriction lawful, legitimate and proportionate?

4

RAISE THE ISSUE FORMALLY

Write a letter or email to your local authority or HSCP. Explain that you know there is a legal duty which is not being met.

5

SET UP THE INTERVENTION

This can include making a complaint, contacting a regulator, contacting a lawyer.



“

Asking you to give me equal rights implies that they are yours to give.

Instead I must demand that you stop trying to deny me the rights all people deserve

Elizabeth Peratrovich
Equal rights advocate for Alaska Natives

Questions?

Resources

Carers Charter

[Summary of rights that carers have under Carers \(Scotland\) Act](#)

Pocket Guide to Human Rights for Carer

[An excellent resource to understand how the Human Rights Act applies to carers](#)

Carers and the Equality Act

[Summary of the Equality Act and what it means for carers](#)

Getting in touch

Coalition website

For information and resources about carer rights and policy, our meetings, and becoming a member.

Coalition Facebook Page

For up to date news and announcements for carers in Scotland

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