

Human Rights Act 1998 - Information for court users

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Information for court users

This leaflet explains how to issue a claim for money owed or damages under the Human Rights Act 1998 (HRA) in the county courts and the High Court in England and Wales. It also sets out some important things to consider before you use the courts for this purpose. It may save you time and money if you first ask a solicitor or advice worker if it is appropriate for you to make a HRA claim. You may also need to seek advice on how best to prepare a claim, what evidence you need and, if relevant, what amount of damages to claim. Court staff can advise you on court procedures and give you the forms you need. They cannot give you legal advice.

This leaflet does not set out the rights protected by the HRA or advise you how to decide if your rights have been unlawfully interfered with. For further information please see the section at the end of the leaflet or seek legal advice.

If you need legal advice and do not have a solicitor, you can find out the names and contact details of solicitors from the Community Legal Service Directory. County courts and libraries have a copy of this directory, or you can contact the Community Legal Service web site (see 'Further Information').

What is the Human Rights Act?

The Human Rights Act 1998 is in full force from 2 October 2000 and it makes the main Articles from the European Convention on Human Rights enforceable under national law in the United Kingdom. This means that, although you have always had the rights set out in the Convention, you may now rely on them directly in the courts in the UK. In the past, people in the UK who believed that their human rights had been breached had to take their case to the European Court of Human Rights in Strasbourg.

From 2 October 2000 onwards you will be able to bring proceedings in the appropriate court against a public authority. You can do so if you feel that through their decisions or actions, they have unlawfully interfered ('acted incompatibly') with your rights. You can also do so if you feel that there is a risk, because of a proposed act, that they will do so in future.

If your case is unsuccessful in the UK you may still make an application to the European Court of Human Rights.

What is a public authority?

The HRA gives you the right to bring a case only against a public authority, not against another individual. Broadly, public authorities are bodies serving a governmental purpose or public function. Organisations such as local authorities, Her Majesty's Courts Service and police forces are all public authorities. Private organisations can be classed as a public authority when they are performing duties of a public nature e.g. a private security firm transporting prisoners on behalf of the Prison Service.

If you are not sure whether the person or organisation is a public authority, you will need legal advice.

A public authority will not be considered to have acted incompatibly if, as a result of an Act of Parliament, they could not have acted differently.

You may only bring proceedings against a public authority for acting incompatibly with a Convention right if you are a victim.

What is a victim?

A victim, under the Act, can be defined in the following ways:

- An individual who has been affected or is at risk of being directly affected by something done by a public authority;
- An organisation, interest group or trade union, but only if it is itself a victim. There is also nothing to stop these organisations providing assistance, such as legal representation, to a victim;
- A relative of a victim, if the complaint is about the death of the victim;
- An individual or a company whose case could be heard by the European Court of Human Rights in Strasbourg.

When can I make a HRA claim?

1. In a claim against a public authority:

You can bring proceedings under the Act claiming that a public authority has acted incompatibly (or failed to act compatibly) with the Convention, as long as the act in question took place on or after 2 October 2000. You can still take your claim to the European Court of Human Rights if the act took place before 2 October 2000 (see 'Further Information' for contact details).

To use the UK courts you must issue your claim within one year of the act being committed by the public authority, or its failure to act. However if there is a stricter time limit for the type of case (e.g. 3 months for judicial review cases) that time limit will apply instead.

2. In a case brought against you by a public authority:

From 2 October 2000 you can rely on the Convention rights in relation to actions whenever they occurred provided the case has not finished.

What type of claim can I bring?

There are three types of case involving the HRA that you can bring in the county courts or the High Court in England and Wales:

1. A claim for money owed or damages based on a breach of one or more of the rights protected by the HRA.
2. A claim for damages following a decision by a court that does not have the power to award damages that your human rights have been breached. For example, if the Crown Court decides that your rights have been breached because you have been unlawfully detained, you can issue a claim on that basis. Defendants convicted in the Crown Court can make claims for damages in an appeal to the Court of Appeal.
3. A non-damages claim, an application for an injunction or judicial review of the decision or action of a public authority. Applications for judicial review should be filed in the Administrative Court Office at the Royal Courts of Justice using a Judicial Review Claim Form. Please refer to the Notes for Guidance on Applications for Judicial Review, available from the Administrative Court Office (Tel. 020 7947 6205), for more information. If you wish to make a claim for anything other than money (for example, an injunction) you are advised to seek legal advice.

When you make an HRA claim you must include the following information in your statement of case:

- details of the Convention right which you believe has been breached and how
- details of what you are asking the court to do to put the situation right e.g. a claim for damages or a change in procedure.

The practice direction supporting Part 16 of the Civil Procedure Rules deals with HRA claims and goes into more detail about what needs to go in your statement of case. Court staff will be able to show you a copy.

How can I make a claim for money owed or damages?

- You can start your HRA claim in a county court or the High Court if your claim is for more than £15,000. Claims for less than this amount must be started in a county court. You can claim for damages in respect of a judicial act, but only if you are claiming that you were unlawfully arrested or detained. These claims must be started in the High Court. Once you have started a HRA case in a county court it may be transferred to the High Court depending on its complexity and seriousness.
- You can start your HRA claim by using an ordinary claim form (N1) which you can get free from any county court. The usual fees for issuing a claim will apply. Please refer to the County Court Fees Leaflet (EX50) and the leaflets explaining the claim process, which are available from any county court. The forms and leaflets are also on our web site (see 'Further Information').
- When you are filling in the claim form, tick the 'Yes' box to indicate that your claim includes a Human Rights Act point. This is so that Her Majesty's Courts Service can tell how many claims are being made.

What can the court do?

If the court finds that a public authority has acted (or proposes to act) in a way that is not compatible with the HRA it may grant whatever remedy, within its powers, that it considers just and appropriate. If you are to be awarded damages the court must take into account the principles applied by the European Court of Human Rights. The level of damages awarded by the European Court of Human Rights is generally modest and in some cases the Court may consider that a judgment in favour of the victim is all that is needed.

Further Information

Publications

The Human Rights Task Force, in conjunction with the Bar Council, has produced a guide to the Human Rights Act 1998 which you can read on the Home Office web site (details below).

The guide lists a selection of books and organisations that will help you find out more about the Human Rights Act 1998.

Web sites

The Home Office:

<http://www.homeoffice.gov.uk/hract>

The Council of Europe, Human Rights Directorate:

<http://www.dhdirhr.coe.fr>

The European Court of Human Rights:

<http://www.echr.coe.int>

Her Majesty's Courts Service:

<http://www.hmcourts-service.gov.uk>

The Community Legal Service:

<http://www.justask.org.uk>

Telephone 0845 608 1122

Minicom 0845 609 6677

The European Court of Human Rights

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