

Human Rights - FREDA

Fairness

Respect

Equality

Dignity

Autonomy

These core human rights values are simple and resonate strongly with the personal values of both providers and users of public services. They are also of practical use, for example as 'flags' that help people to identify when human rights may have been violated or as 'prompts' when solutions to human rights issues are being sought, whether in an individual case or at policy level.

Value	Human right	Example policy or practice change
Fairness	Right to fair trial	Ensuring that there is a robust and fair process for dealing with concerns about the professional conduct or performance of a healthcare professional.
Respect	Right to respect for family and private life, home and correspondence	Respecting all diverse families, e.g. same-sex couples with children. Avoid denying those detained or in residential care access to family without good reason.
Equality	Right not to be discriminated against in the enjoyment of other human rights	Commitment to improving mental health services for people from black and minority ethnic groups. Ensuring that people are not denied treatment solely on the basis of their age.
Dignity	Right not to be tortured or treated in an inhuman or degrading way	Ensuring that there are sufficient staff to promptly change wet sheets to reduce the risk of people suffering degrading treatment.
Autonomy	Right to respect for private life	Involving people in decisions made about their treatment and care.

The rights contained in the Human Rights Act are:

- the right to life;
- the right not to be tortured or treated in an inhuman or degrading way;
- the right to be free from slavery or forced labour;
- the right to liberty and security;
- the right to a fair trial;
- the right to no punishment without law;
- the right to respect for private and family life, home and correspondence;
- the right to freedom of thought, conscience and religion;
- the right to freedom of expression;
- the right to freedom of assembly and association;
- the right to marry and found a family;
- the right not to be discriminated against in relation to the enjoyment
- of any of the rights contained in the European Convention;
- the right to peaceful enjoyment of possessions;
- the right to education;
- the right to free elections.

Relevant issues and examples in healthcare scenarios

Human Right	Some relevant issues in healthcare	Example
<p>The right not to be tortured or treated in an inhuman or degrading way</p> <ul style="list-style-type: none"> • Inhuman treatment means treatment causing severe mental or physical suffering. • Degrading treatment means treatment that is grossly humiliating and undignified. <p>This is an absolute right. Inhuman or degrading treatment does not have to be inflicted deliberately.</p>	<ul style="list-style-type: none"> • Physical or mental abuse • Soiled, unchanged sheets • Leaving trays of food without helping patients to eat, when they are too frail to feed themselves • Excessive force used to restrain patients • Staff not being protected from violent or abusive patients 	<p>A man with learning disabilities was living in a residential care home. He was regularly tied to a bed or his wheelchair for 16 hours at a time, to prevent him from hitting his head and face, causing him physical pain and mental anguish. This kind of situation could breach the right not to be treated in an inhuman or degrading way.</p>
<p>The right to respect for private and family life, home and correspondence</p> <p>This right is very wide ranging. It protects four broad categories of interests:</p> <ul style="list-style-type: none"> • Family life is interpreted broadly. It does not just cover blood or formalised relationships. • Private life is also interpreted broadly. It covers more than just privacy, including issues such as personal choices, relationships, physical and mental well-being, access to personal information and participation in community life. • The right to respect for home is not a right to housing, but a right to respect for the home someone already has. • Correspondence covers all forms of communication including phone calls, letters, faxes, emails etc. <p>This right is a qualified right and may be interfered with if the interference has a basis in law, pursues a legitimate aim as set out in the Human Rights Act and is necessary and proportionate. One of the legitimate aims is the protection of the rights of others.</p>	<ul style="list-style-type: none"> • Privacy on wards and in care homes • Family visits • Sexual and other relationships • Participation in social and recreational activities • Personal records – including medical, financial • Independent living • Closure of residential care homes or hospitals • Separation of families due to residential care placements 	<p>A hospital had a mixed ward and promised to re-order it so that men were at one end, with women at the other. It did not do this, and an Orthodox Jewish woman was highly distressed about sharing a ward with men. This kind of situation could be a breach of the right to respect for private life.</p>

Human Right	Some relevant issues in healthcare	Example
<p>The right to liberty</p> <p>The right to liberty is not a right to be free to do whatever you want. The right to liberty is a right not to be deprived of liberty in an arbitrary fashion.</p> <p>The right to liberty is a limited right. It can be limited in a number of specific circumstances, for example the lawful detention of someone who has mental health issues.</p>	<ul style="list-style-type: none"> • Informal detention of patients who do not have the capacity to decide whether they would like to be admitted into hospital, e.g. those patients with learning disabilities or Alzheimer's disease • Delays in reviewing whether mental health patients who are detained under the Mental Health Act should still be detained • Delays in releasing mental health patients once they have been discharged by the Mental Health Review Tribunal • Excessive restraint of patients, e.g. tying them to their beds or chairs for long periods 	<p>A large number of patients throughout the UK who do not have capacity to make their own decisions but are not in a position to be detained under mental health legislation are informally admitted to and detained for treatment in hospital. This kind of admission and detention has been ruled to breach the right to liberty, as there are no clear rules and procedures governing who decides that someone should be detained, and for what reasons.</p>
<p>The right to a fair trial</p> <p>The right to a fair trial contains a number of principles that need to be considered at some stage during the decision making process when a person's civil rights or obligations or a criminal charge against a person comes to be decided upon. The person whose rights will be affected has the right to:</p> <ul style="list-style-type: none"> • an independent and impartial tribunal; • be given notice of the time and place of any proceedings; • a real opportunity to present their case before the decision is made; • disclosure of all relevant documents; • have their hearing take place within a reasonable time; and • be given reasons to enable them to understand the decision that has been made. 	<ul style="list-style-type: none"> • Staff disciplinary proceedings • Compensation claims • Independence of tribunals, e.g. the Mental Health Review Tribunal 	<p>Ensure that there is a robust and fair process for dealing with any concerns about the professional conduct or performance of a healthcare professional.</p>

Human Right	Some relevant issues in healthcare	Example
<p>The right to life Public authorities must:</p> <ul style="list-style-type: none"> • not take away a person's life, except in a few very specific and very limited circumstances, such as lawfully, and using no more force than is absolutely necessary, defending someone from violence; • take appropriate steps to protect a person's life in nearly all circumstances. <p>Although the right to life is fundamental, there is no corresponding right to medical treatment in all circumstances.</p> <p>The protection of the right to life requires that there should be an effective official investigation into deaths resulting from the state's use of force or the state's failure to protect life.</p>	<ul style="list-style-type: none"> • Do Not Resuscitate orders • Refusal of life saving medical treatment • Active or passive euthanasia • Advance directives • Deaths through negligence • Investigations, including inquests, where a death is suspicious 	<p>A disabled woman was admitted to hospital with a chest infection. While there, she discovered that a 'Do Not Resuscitate' order had been placed on her file, because medical staff considered that she had a low quality of life which should not be prolonged. This kind of situation could be a breach of the right to life.</p>
<p>The right not to be discriminated against This right is a right not to be discriminated against in the enjoyment of the other human rights contained in the Human Rights Act. It is not a free standing right, so if no other right in the Human Rights Act is engaged, then this right will not come into play. Discrimination takes place when someone is treated in a different way compared with someone else in a similar situation. Indirect discrimination happens when someone is treated in the same way as others that does not take into account that person's different situation. However, an action or decision will only be considered discriminatory if the distinction in treatment cannot be reasonably and objectively justified.</p>	<ul style="list-style-type: none"> • Refusal of medical treatment to an older person solely because of their age • Non-English speakers being presented with health options without the use of an interpreter • Discrimination against NHS Trust staff on the basis of their caring responsibilities at home 	<p>A hospital had a practice of sectioning asylum seekers with little or no English without the use of an interpreter. This practice could breach the right not to be discriminated against (on the basis of language or race) in conjunction with the right to liberty.</p>