

# Human Rights Act Reform consultation

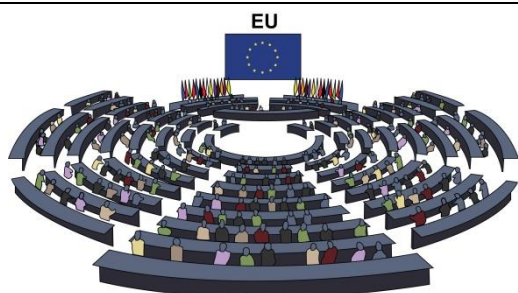


Human Rights Act 1998



The Government's plans to get rid of the Human Rights Act and replace it with a British Bill of Rights as it's too tied with the European Convention of Human Rights.

The Government asked for an independent review to come up with reasons for a reform. It said there didn't need to be a review. It was published on the same day as the consultation was launched.



Sometimes there is confusion about the European Convention of Human Rights and leaving the European Union.



The Human Rights Act has had some bad press over the years. This is usually to do with people in prison, terrorists, and immigration.



The press has highlighted these cases and helped to give the Human Rights Act a bad name.



It is important to share stories about how the Human Rights Act has made our lives better.



Lots of the questions in the consultation paper were technical and legal, unnecessary and complicated.

We agreed that question 29 was the most important one to answer.



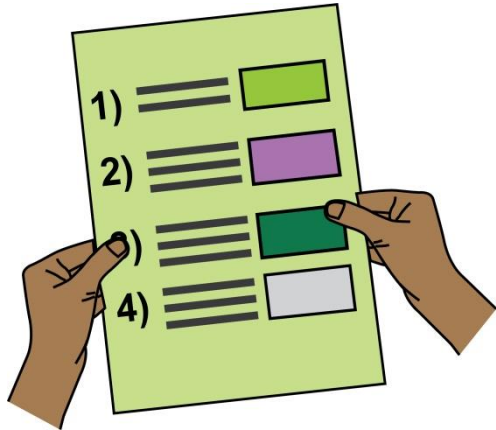
The British Institute of Human Rights (BIHR) made a video and some templates.



Dominic Raab was the Minister for Justice. David Cameron spoke about getting rid of the Act in 2006.



We need to give the Government evidence to say otherwise.



Some of the main points include:

They want to restrict compensation depending on previous behaviour that may not be 'good enough'

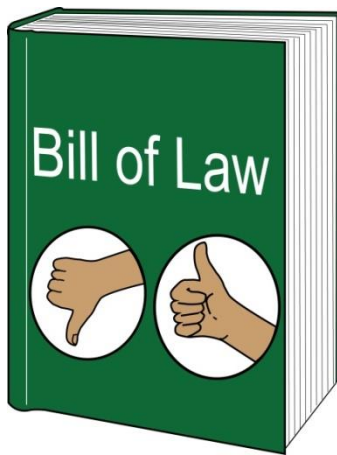
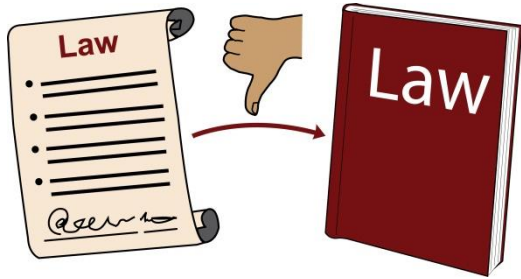
There is no mention of disability in the consultation questions.

They're not planning to get rid of the rights but make it harder to claim those rights.



**Question: Section 3**

At the moment the Human Rights Act says the UK courts have to interpret our laws in line with how the Court in Strasbourg interprets them. They want to get rid of section 3 – the interpretive duty. The government want to delete it so it falls back on how

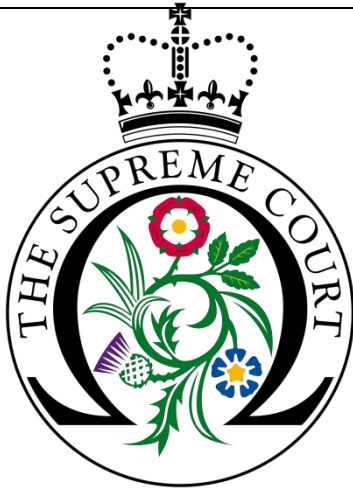


UK courts interpret law – how the ‘ordinary person’ understands it, or what they thought Parliament intended, or other court cases.

This could mean a bigger gap between what our courts say and what the ECHR. There doesn’t seem to be any evidence that this is a problem.

### **Question 2: Declarations of incapability.**

If a court can’t interpret the Human Rights Act that’s in-law with the Convention rights. Section 4 says this can be triggered. The Government proposes that they increase declarations of incapability to secondary legislation (statutory instruments - regulations that aren’t made by Parliament) they are signed in to law by Ministers. If one of these is incompatible with Human Rights Act the courts can say that regulation is void



and doesn't apply. If there's the proposed change then there isn't an immediate impact on the law. Our legal system is split in to 3 different parts:

1. Executive - Government
2. Parliament - supreme
3. Judiciary - the courts



### **Primary law**

In order to get an act of law there needs to be a:

- Debate in House of Commons
- House of Lords
- Through committees – to look at the detail and have votes on it



Parliament is supreme – this law cannot be changed or made void without going through this process.

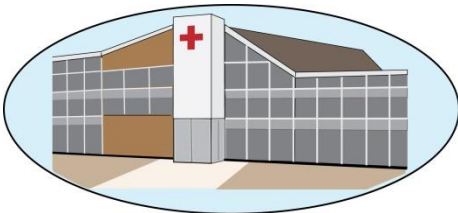


### **Secondary law**

Made by Ministers (the Executive) – no debates. Different status in law – this legislation can be declared void.

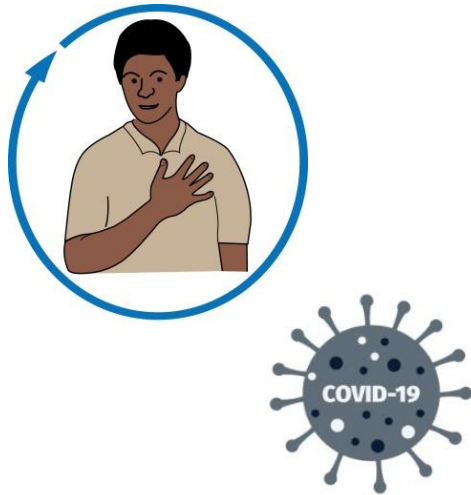


It's important to think of ways that the Human Rights Act affects us. For example, getting equal access to health care. This was highlighted during the pandemic.



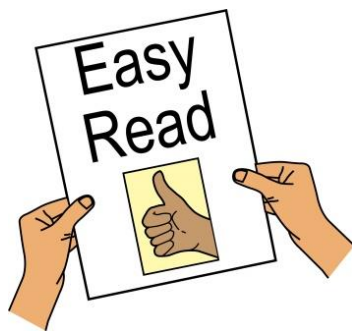
People with autism and learning disabilities end up in prison more than other people because of the way that law works in a discriminatory way. So if people in prison have their rights restricted this can have more of an impact of people with learning disabilities.

**Section 6** – this is about agencies performing a public service (hospitals, local authorities, courts etc.), have to act in a way that uphold your human rights. Want to change this to if they are performing within the law they are upholding our rights.



This section helps disabled people to get their rights acknowledged.

Covid-19 restrictions had challenged this by imposing blanket restrictions, such as visiting people.

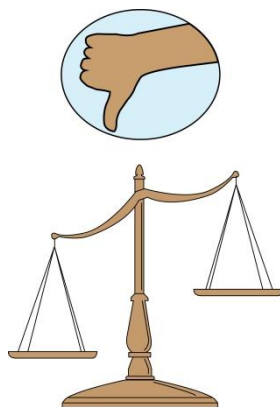


Having access to information and having easy read is a right. The Government did not do this well during the pandemic and had not published easy read for this consultation.

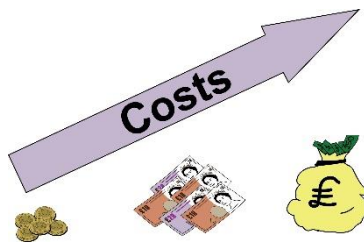


### Permission Stage

There's a proposal to introduce a new Permissions Stage before people can bring Human Rights Act claims.



You already have to show that you've been significantly affected, and it's had an effect on you, so it doesn't seem necessary to bring another



stage in. It's suggesting there are problems with the process (too many claims wasting time).

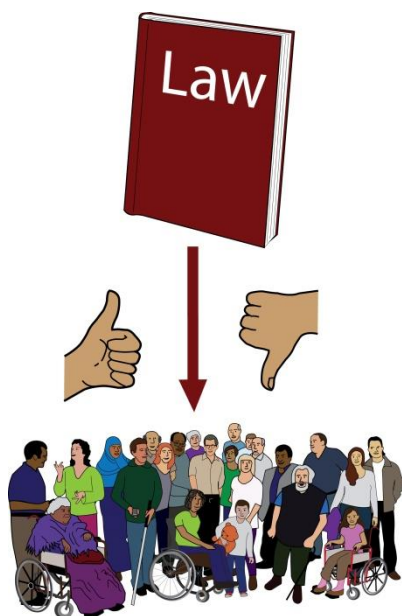
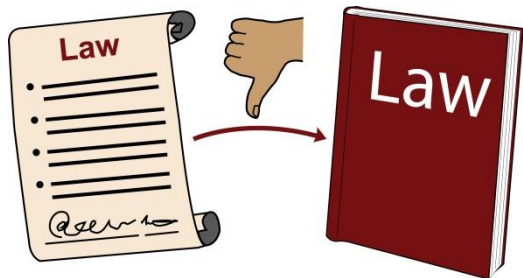
This will make it more difficult to bring challenges – this could put people off and make the process more expensive.

The alternative to go to the EU which isn't a realistic option for many people.

**Q8 & Q9** was about the Permission Stage. It seems an entirely pointless proposal from the Government. Important questions that need to be raised and discussed may not make it to court if this is in place.

For examples Heidi Crowter's court case is about Human Rights principles, but may not reach the threshold of 'significant disadvantage' if this stage is in place.





BIHR has really good guidance to help with responses.

The Government's approach to the consultation and understanding of the law was very worrying.

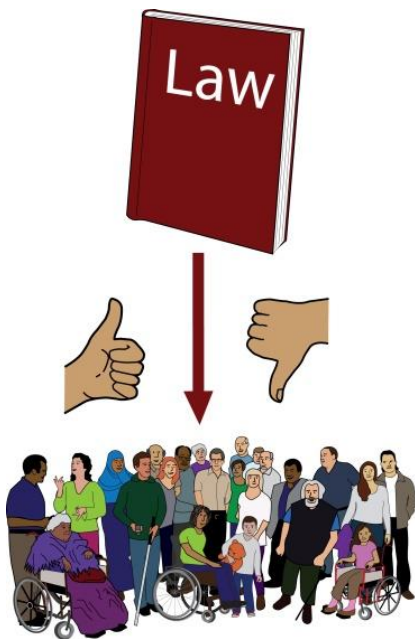
Making it harder for people to bring claims will not stop the Human Rights abuses or infringement.

If people apply for 'permissions' and exhaust their local remedies they only have the Strasbourg court will be more expensive.

Another concern is that it could be down to discretion of judges as to what is important or not.

Other points to be thought about included:

1. Taking out of taking into account

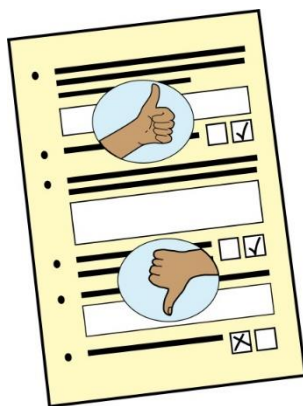


European Convention of Human Rights judgements – must be retained.

2. UNCRPD should be included and is stronger on rights for disabled people.
3. Courts should make it clear if there's incompatibility – the law must reflect the rights of disabled people.

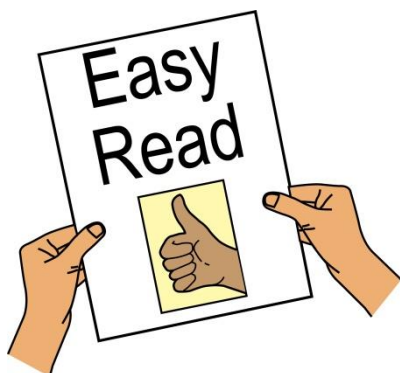
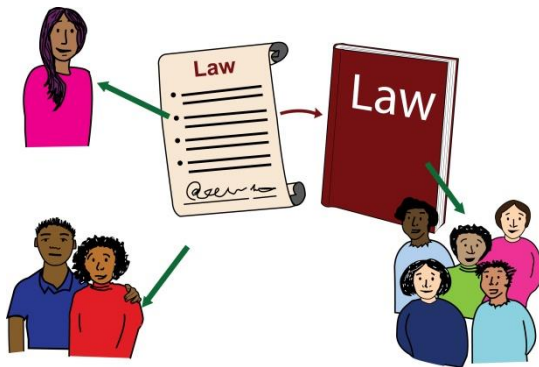


We found it hard to unpick all the proposed changes – people may see these as just little changes but don't understand the big impacts they will have on people's everyday lives.



It was agreed that for the consultation response we would:

Talk about the Permissions Stage and how it will stop people who do have their human rights stamped on deal with it.



Talk about other Conventions and other rights like the UNCRPD. They're not proposing to add in any more rights or change the existing rights, but just 'little things' that will reduce access to the courts and to justice – this will make English law potentially further away from UNCRPD, which is a treaty that we ratified and should be accessible to people in England.

Focus on the changes to what public authorities need to do as this is our interface to human rights. Infringing human rights is about public authorities infringing our rights.

Talk about how the proposal to introduce 'behaviour' will affect getting compensation if your rights have been breached. This may affect people with learning disabilities and autism.

# Chris's Art Work

