



Human Rights Act 1998 - Information for court users

This leaflet explains how to issue a claim for damages or money owed under the Human Rights Act 1998 (HRA) in the County Court 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 legal representative 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 on 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.

You may qualify for legal aid. Visit www.gov.uk/legal-aid for more information.

You may also get free legal advice from a law centre or a Citizens Advice Bureau at www.adviceguide.org.uk

What is the Human Rights Act?

The HRA came into force on 2 October 2000 and makes most of the rights and fundamental freedoms recognised in the European Convention on Human Rights directly enforceable in UK courts. The enforceable rights and fundamental freedoms are defined in the HRA as the Convention rights.

Under the HRA you may be able to bring human rights proceedings in the appropriate court against a public authority. You can do so if through their decisions or actions (or failure to act), the public authority has unlawfully interfered (i.e. 'acted incompatibly') with your Convention rights. You can also do so if 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 be able to bring proceedings before the European Court of Human Rights in Strasbourg, but time limits and other admissibility criteria apply. Information on making an application to the European Court of Human Rights is available from its website (see 'Further Information' for details).

What is a public authority?

The HRA enables you to bring a case only against a public authority, not against another individual. Broadly, public authorities are persons or organisations serving a governmental or public function. Organisations such as government departments, local authorities, courts, tribunals, HM Courts & Tribunals Service and police forces are all public authorities.

Private persons and organisations may be classed as a public authority when they are performing functions of a public nature e.g. a private security firm transporting prisoners on behalf of the Prison Service.

The House of Commons, the House of Lords and a person exercising functions in connection with proceedings in Parliament is not a public authority.

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 found to have acted incompatibly with a Convention right if, as a result of an Act of Parliament, it 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.

Who is a victim?

Under the HRA, a person is only a victim if they would be a victim under Article 34 of the European Convention on Human Rights if they were bringing proceedings before the European Court of Human Rights. Practically, this could include:

- an individual who claims to have been, or is at risk of being, directly affected by an act of a public authority (or its failure to act) that is incompatible with their Convention rights;
- a company that is itself a victim;
- an organisation, interest group or trade union, but only if it is itself a victim. These organisations may also provide assistance, such as legal representation, to a victim; or
- a relative of a victim e.g. if the complaint is about the death of the victim.

When can I make a HRA claim?

1. In a claim against a public authority:

You can bring proceedings under the HRA claiming that a public authority has acted incompatibly (or failed to act compatibly) with a Convention right, as long as the act in question took place on or after 2 October 2000.

You may still be able to bring proceedings before the European Court of Human Rights if the act took place before 2 October 2000, but the admissibility criteria of the European Court of Human Rights includes a requirement that proceedings are brought after all domestic remedies have been exhausted and within 6 months of the date on which the final domestic decision was taken (see 'Further Information' for contact details).

To use the UK courts you must issue your claim within one year of the public authority committing the act (or failing to act). However if there is a stricter time limit for your particular type of case (e.g. three months for an application for judicial review) that time limit will apply instead.

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

You can rely on the Convention rights in proceedings brought against you by a public authority in relation to actions (or failures to act) whenever they occurred.

What type of claim can I bring?

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

1. A claim for damages or money owed based on a breach of your Convention rights.
2. A claim for damages based on a breach of your Convention rights following a decision by a court that your Convention rights have been breached, where that court does not have the power to award damages. For example, if the Crown Court decides that your Convention rights have been breached because you have been unlawfully detained, you can issue a claim for damages 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, or an application for an injunction or judicial review of the decision or action of a public authority. Applications for judicial review should be filed with the Administrative Court Office at the Royal Courts of Justice using a Judicial Review Claim Form (N461). See the Notes for Guidance on Applications for Judicial Review which are available on MoJ Form Finder. If you wish to make a non-damages claim you are advised to seek legal advice.

When you make a 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; and
- details of what you are asking the court to do to remedy the situation (i.e. put it right) or compensate you e.g. damages or a change in procedure.

See Practice Direction 16 to Part 16 of the Civil Procedure Rules for more detail about what needs to go in your statement of case when you are making a HRA claim.

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

- If your HRA claim has a financial value of under £100,000 you should start your claim in the County Court. If your claim has a value above £100,000 you should start your claim in the High Court. Once you have started a HRA case it may be transferred to the High Court depending on the type of case and the remedy you have asked for.
- You can claim for damages in respect of a judicial act in limited circumstances e.g. if you have been unlawfully arrested or detained. These claims must be started in the High Court or in an appeal and need to be stated in your statement of case.
- You can start your HRA claim by using an ordinary Claim Form (N1).
- When you are filling in the Claim Form, tick the 'Yes' box to indicate that your claim includes issues under the HRA.

What can the court do?

If the court finds that a public authority has acted (or proposes to act) in a way that is incompatible with the Convention rights it may grant whatever remedy, within its powers, that it considers just and appropriate. The court needs to take into account all of the circumstances of the case and be satisfied that damages are necessary to afford you just satisfaction. The court must also take into account the principles applied by the European Court of Human Rights when it awards damages. The level of damages awarded by the European Court of Human Rights is generally modest and in some cases the European Court of Human Rights may consider that a judgment in favour of the victim is all that is needed to provide just satisfaction.

Further Information

Text of the Human Rights Act 1998

www.legislation.gov.uk/ukpga/1998/42/contents

The European Court of Human Rights:

www.echr.coe.int/Pages/home.aspx?p=home&c=

Civil Legal Aid:

www.gov.uk/legal-aid

Equality and Human Rights Commission:

www.equalityhumanrights.com/

Civil Procedure Rules:

www.justice.gov.uk/courts/procedure-rules/civil

Ministry of Justice Form Finder

hmctsformfinder.justice.gov.uk/HMCTS/FormFinder.do