

The Human Rights Act and Housing (*ref 37*)

- 1.** The main substance of the *Human Rights Act 1998* is in the schedules which reproduce the European Convention on Human Rights which now applies directly as part of UK law.
- 2.** The *Act* does not give anyone without a home of their own a right to such a home. Those rights, such as they are, come under homelessness and community care legislation. What the *Act* does do is help protect what people already have.
- 3.** The *Act* has effect on public authorities, and on other agencies only in as much as it is their business to do the job of public authorities.
- 4.** *Article 8* says that everyone has the right to respect for his private and family life, his home and his correspondence. This strengthens other laws and good practice requirements which inhibit public authorities from moving someone without good cause, removing them from easy contact with friends and family, or providing institutional care which denies privacy.
- 5.** Where people who have been together as an established arrangement want to stay together, they would seem to have a case to argue against being denied continuing contact even though they are not a conventional 'family'. This has been accepted by the courts in a recent case, even where one of the partners in a relationship was being abused by the other (Munby J, in *Re MM (an adult)* (2007) EWHC 2003 (Fam)).
- 6.** Arguments based on this article might have some relevance to the healthy trend of supporting people who want to stay on in the family home when their parents die, or to 'inherit' the tenancy of a council house.
- 7.** *Article 12* deals with the right to marry subject to national laws and capacity to marriage. Issues would be raised if accommodation and support rules barred marriage and starting a family.
- 8.** *Article 14* prohibits (unfair) discrimination and disability discrimination seems to be condemned under the *HR Act* as well as the *Disability Discrimination Act*. If someone with a learning disability were seen to be losing out in terms of enjoyment of home and family life because of their learning disability, that might be challenged under the *HR Act*.
- 9.** The First Protocol - Article 1 – protects a person's peaceful enjoyment of their possessions. This might be used in aid of someone who was being asked to give up his or her possessions to enter a residential home.
- 10.** In the Care Standards case over Alternative Futures de-registration of homes the Tribunal rejected the submission of a breach of Human Rights by the Commission in fulfilment of its regulatory role. The Tribunal relied on the fact that the decision to regulate and enforce the Care Standards Act did not itself deprive the tenant of a home or of his possessions.
For more information see the *Quick Brief De-Registration of Care Homes (ref 25)*.

If you require further information or have other queries contact Housing Options.

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