Care about Rights?

Section Three

Information for people who use services, their families and carers

Information for people who use services, families and carers

Introduction

Your human rights and those of your family are protected in both international law and in the laws that apply here in Scotland.

In Section 1 of these materials we explained that human rights are the basic rights and freedoms to which everyone is entitled. We all have human rights in order to live with dignity.

Human rights include things like the right to privacy, to a home and family life as well as the right to be free from inhuman and degrading treatment. They also include things like the right to an adequate standard of living, including adequate housing, the right to the highest attainable standard of health and the right to education.

The Scottish Human Rights Commission wants everybody to understand what human rights are and how we can work together to make sure that human rights are protected and respected in Scotland. That is why the Commission has produced these materials for you as well as for those who provide care services and those who organise and regulate care services.

Government officials and care providers are primarily accountable for ensuring that your human rights are respected. However, we all share some responsibility in helping to make sure that all of our rights are respected.

What do I do if I am worried about my human rights or the human rights of my family or friend?

There are a number of things you can do if you're worried about human rights not being respected or you require support for your care needs.

Please note that the Scottish Human Rights Commission cannot give any advice to individuals about their human rights, but we hope the guidance in this pack will help you to resolve any issues you may encounter.

Section 1 will give you a better understanding of human rights. You can use the flowchart on page 41 to think about whether there is a human rights issue and whether there might be ways of sensibly resolving the problem.

Help to access information and express your views

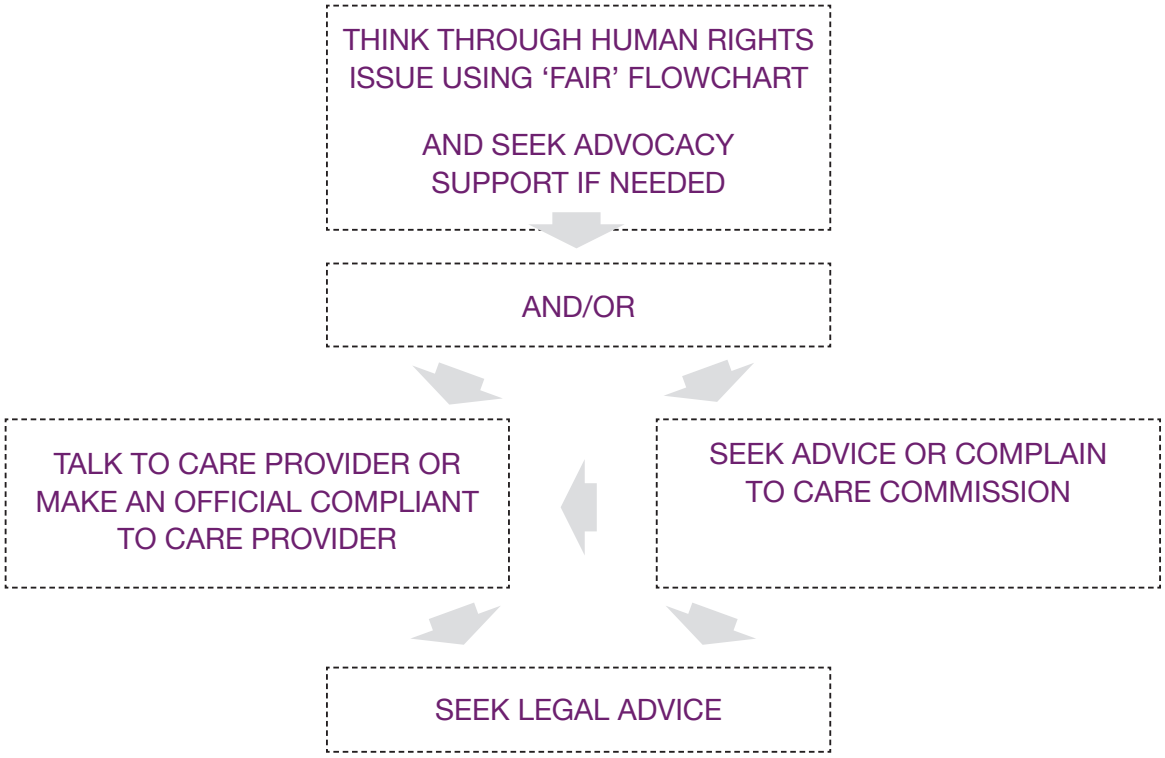
If you feel that your views are not being heard or you feel you cannot express what you want to say then you might want to consider getting independent advocacy support to help you through the whole process.

Using an advocate can help to give you a stronger voice by enabling you to express your own needs and make your own decisions. Advocates can also assist you to gain access to information, to explore and understand your options and to make your views and wishes known.

The Scottish Independent Advocacy Alliance can provide much more information about advocacy support and their website at www.siaa.org.uk can help you to find advocacy support in your area.

If you or someone you know is over 16 and at risk of physical, sexual, financial or psychological harm or neglect because of a disability, mental disorder, illness or physical or mental infirmity, you can contact the Adult Protection Unit or its equivalent in your local area. Contact details are available via the Act Against Harm website at www.infoscotland.com/actagainstharm.

If you are worried about a human rights issues affecting you or your friends or family you may wish to think about the following steps:



Thinking it through

First of all it will be helpful to think through the issues yourself or have somebody assist you to work through the issues. You can use the FAIR flowchart on page 41 to help you.

Following the steps of the flowchart you should consider:

- **Facts:** What is your experience? Are you able to express your views or would you like support? What are the important facts to understand?

- **Analyse Rights:** What are the human rights at stake? Is there any justification for restricting your rights and if so is it the minimum restriction?

- **Identify Responsibilities:** What changes do you think are required? Who do you think is responsible to make the necessary changes?

- **Review Actions:** Have you been involved in implementing the changes that have been made and have these been reviewed where appropriate?

If you are a family member of the person you are worried about, make sure that you talk to them too. They have a right to participate in decision making about their life and to have their rights respected and are likely to have their own ideas about their care.

Talking to the care provider or to the Care Commission

Once you have thought through the issues from a human rights perspective you are in a more informed position to talk to your care provider, local authority or the care regulator about your concerns. If the care provider, regulator or local authority understand human rights too then this will help and you might be able to resolve the issue by finding a different way of doing things.

If you have an issue with your service provider, you may want to talk to them directly about why you think your human rights are not being respected and what your suggestions might be to resolve the issue. If you don't feel comfortable raising the issue with the provider, you can raise the issue with your social work care manager or the Care Commission. The Scottish Commission for the Regulation of Care (the Care Commission) is currently responsible for regulating care services in Scotland and can help with complaints. It is important to remember you have the right to complain to the regulator at any time and you do not have to talk to the care provider first of all if you don't want to.

Both the National Care Standards (see page 61) and the Scottish Social Services Council Codes of Practice for social service workers and employees can help you to know what you can expect from your care provider and the staff who support you. There are links to these at Section 7 of the pack.

If you think you might require changes to your care support, then you can talk to your care manager or alternatively Care Information Scotland may be able to signpost you to help.

Care Information Scotland is a telephone and website service providing information about care services for older people living in Scotland. They can provide information about:

- Care needs assessment - why do you need one?
- Care at home - services to assist you while living at home
- Supported housing - services and adaptations to support independent living
- Care homes - places to live which offer full-time care. What are the options for finding and paying for a care home?
- Support for carers - services and support to help unpaid carers
- Your rights - what rights do you have?
- Advice and support - organisations that can offer information and assistance.

The telephone helpline number of Care Information Scotland is 08456 001 001 and the website address is www.careinfoscotland.co.uk/home.

Make a complaint to the care provider

If your initial contact with the care provider hasn't got you anywhere then you can consider using their complaints procedure to make it more official. All providers are required to have a clear and accessible complaints procedure.

It can be scary to make a complaint but in many cases you might find that things are easily resolved with a positive outcome for everybody involved.

Make a complaint to the Regulator

There are several places you can go to make an official complaint. Some are listed in Section 7 of these materials.

The Scottish Commission for the Regulation of Care regulates all adult, child and independent healthcare services in Scotland. They make sure that care service providers meet the Scottish Government's National Care Standards and work to improve the quality of care. Any person may choose to complain directly to the care provider or the Care Commission, or both.

The Care Commission will consider whether the care provider has complied with the National Care Standards. Human rights underpin the National Care Standards and the system of inspection and regulation in Scotland. The Standards themselves are informed by human rights principles. These are set out in the National Care Standards as follows:

" • **Dignity**

Your right to:

- be treated with dignity and respect at all times; and enjoy a full range of social relationships.

• **Privacy**

Your right to:

- have your privacy and property respected; and be free from unnecessary intrusion.

• **Choice**

Your right to:

- make informed choices, while recognising the rights of other people to do the same; and know about the range of choices.

- **Safety**

Your right to:

- feel safe and secure in all aspects of life, including health and wellbeing; enjoy safety but not be over-protected; and be free from exploitation and abuse.

- **Realising potential**

Your right to have the opportunity to:

- achieve all you can
- make full use of the resources that are available to you
- make the most of your life.

- **Equality and diversity**

Your right to:

- live an independent life, rich in purpose, meaning and personal fulfilment
- be valued for your ethnic background, language, culture and faith
- be treated equally and to be cared for in an environment which is free from bullying, harassment and discrimination
- be able to complain effectively without fear of victimisation."

To make a complaint to the Care Commission you can fill in the Care Commission's complaints form online; telephone or write to any of their regional offices or headquarters; go into any of the Care Commission's offices or fax them at 01382 207236.

The Care Commission also has a helpline on 0845 603 0890, and more information can be found on their website at www.carecommission.com.

Make a complaint to the local authority

You might also want to consider making a complaint to your local authority who may have assisted you in receiving care, or provide your care and who have responsibility to make sure your rights are respected.

A final resort – get legal help

If after all the above steps the issue remains unresolved and you feel that the violation of your rights has been serious then you may need to seek legal advice. The Law Society of Scotland has a list of lawyers in your area. For more information see the contact details in Section 7 of these materials.

Human rights belong to you and your family. Sometimes there are no easy answers to dilemmas that arise but using a human rights based approach can help you to make sure that the care you or your family receive respects human rights and is of a high standard.

Notes