

Evidence on the Bill of Rights Bill

Submitted to the Joint Human Rights Committee (UK Government) on 25.08.2022

Submitted on behalf of **Learning Disability Wales**

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About Learning Disability Wales

Learning Disability Wales is a national charity representing the learning disability sector in Wales. We work with people with a learning disability and their families, Welsh Government, local authorities, disabled people's organisations and the voluntary sector to create a better Wales for all people with a learning disability.

Our Response

We welcome this opportunity to submit evidence to the United Kingdom Human Rights Committee. We are deeply concerned about this Bill and its potential impact on people with a learning disability in Wales. During the original consultation on the Human Rights Act Reform we argued for the reform to be scrapped completely.

We are still of the opinion that the Human Rights Act is functioning as it should be and should not be removed.

We will be responding to questions 11, 13, 14, 20 and 21 of this call for evidence.

11. Does the system of human rights protection envisaged by the Bill ensure effective enforcement of human rights in the UK, including the right to an effective remedy (Article 13 ECHR)?

No. We have grave concerns about the impact the Bill will have on human rights protection and especially to the ability of people with a learning disability to advocate for their rights. As your own analysis argues, we believe

that the new rules will disincentivise people whose human rights have been violated to go to court over this.

The suggested "permission stage" will be particularly damaging to people with a learning disability who will struggle with the addition of another stage to what is likely already a distressing and difficult process.

In addition, we believe that everyone who has had their human rights violated deserves to bring a case to court, and that claiming that some human rights violations are "insignificant" is hugely damaging in itself. This permission stage will also not do anything to prevent cases where someone is lying or has not really suffered a human rights violation. Rather than preventing cases that have no substance getting to court, this will simply make it harder for people from marginalised groups, for example people with a learning disability, to fight for their rights.

13. Do you agree that the courts should be required to take into account any relevant conduct of the victim (even if unrelated to the claim) and/or the potential impact on public services when considering damages? We strongly object to the conduct of the victim being taken into account in considering damages. The very idea that there could be "relevant conduct" that is unrelated to the claim is objectionable. It implies that some people deserve to have their rights violated. This new rule would put into law a dangerous distinction between deserving and undeserving victims which has no place in human rights law. We are also concerned about the knock-on effects making people's rights to damages reliant on "good behavior" or potentially linking it to the potential impact on public services. Both of these concepts imply that people's human rights are not absolute. For people with a learning disability (and other communities who experience discrimination based on their identity) this is particularly concerning. Disability Rights have been hard won, and we know that too many disabled people are still not in a position where they can advocate for their rights and have them respected. Adding a clause that the impact on public services needs to be taken into account would make this even harder, because it might make it considerably harder to get compensation for harm suffered.

14. Clause 6 of the Bill would require the court, when deciding whether certain human rights of prisoners have been breached, to give the "greatest possible weight" to the importance of reducing the risk to the public from persons given custodial sentences. What effect would this clause have on the enforcement of rights by prisoners?

We are disturbed by the specific plans to reduce the rights of prisoners. We do not think it is right to see the rights of an imprisoned person as less important than the “public interest”.

We also do not believe that this part of the Bill is consistent with the Equalities Act. We know that different groups are imprisoned at different rates. This applies to people from certain ethnic backgrounds in particular, but it also affects disabled people disproportionately. A 2012 study commissioned by the Ministry of Justice estimated that 55% of female and 34% of male prisoners are disabled.

According to an [article in Learning Disability Today from April 2021](#), “The actual prevalence of learning disability in UK prisons is not clear – and it also depends on the way it’s defined. The Ministry of Justice estimates it as five to 10% of the prison population; others suspect it is a third or more, if the definition includes people with a cognitive impairment (which may include acquired brain injury) that impacts on their ability to understand and communicate.”

A recent study [in BMC Psychiatry](#) found that 25% of the prison population in the UK fulfil the clinical criteria for Attention Deficit Hyperactivity Disorder (ADHD). These statistics imply that large parts of the prison population may have ended up in the criminal justice system due to a poorly managed neurological condition.

The focus of the government should be about addressing the needs of imprisoned people to make sure they can be rehabilitated successfully. Withdrawing their right to seek compensation for human rights violations they have suffered will significantly impact that ability.

20. How would repealing the Human Rights Act and replacing it with the Bill of Rights as proposed impact human rights protections in Northern Ireland, Scotland and Wales?

The direction of travel in Wales has been towards policies that put a stronger focus on people’s rights. Introducing a Bill that has as its expressed purpose to make it harder for people to have their rights protected fundamentally contradicts that intention. The Human Rights Act provides some of that framework that makes it essential that this legislation is not lost in Wales.

21. Should the Government seek consent from the devolved legislatures before enacting the Bill and, if so, why?

This Bill will significantly affect the people of Wales (as it will the people of England, Northern Island and Scotland). It will affect many areas that are devolved, such as people's ability to make sure their rights are respected in social care settings. It is therefore vital that the Bill is only implemented with consent of the devolved nations. Since the Welsh, Scottish and Northern Irish administrations have all openly opposed to this reform the Bill should be completely scrapped.