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| **DELETE THIS BOX:** Human Rights Act Advocacy Escalation Template Letter comes from a Guide made by the British Institute of Human (BIHR), with the Parent & Carer Alliance CIC: “**Parents & Carers Advocating for Their Disabled Children & Their Families:** Our Human Rights Act for All The Family.” It is intended to be used with the Guide and the steps it outlines. The Guide is available on [BIHR’s website](https://www.bihr.org.uk/get-informed/resources) and the [Alliance’s website.](https://www.parentandcareralliance.org.uk) This letter is for use **after the initial template letter has been used** (which is in the Guide and available on the [Alliance’s website](https://www.parentandcareralliance.org.uk)). Both letters is based on a story in the Guide. You can change this letter to work for your situation, using the information in the Guide. In **[Grey square brackets]** we have included information which are tips to help you write your letter; make sure you delete these tips from your letter.  |

**[General Tips:**

* **Include your full name and the names of your children that you are advocating for.**
* **Include your full contact details, including email, telephone, and address.**
* **Include the date you have sent the letter.**
* **If you are sending as an email you can attach previously letters/emails to show you are now escalating the situation.**
* **If you are sending as an email you can include delivery and read receipts to confirm the email has been received and opened by the people you send it to.**
* **It’s important to keep your letter polite, to make it clear, and set out the detail of the human rights concerns, the duties on the officials, and the actions you think need to be taken, and by when.]**

Dear **[Add the names of the key people you need to contact, e.g. social services, SEND team, CAMHS, etc. This is an escalation letter, so you may need to include more senior staff, managers, etc. ]**

**[Explain who you are and who else you are writing on behalf of and your relationship to them; be clear you have been in touch before. E.g.:]** As you know there have been a range of concerns around the care and treatment my two disabled children, Ali and Sami Shah, and I are receiving, and particularly Ali, who is now at risk of readmission to CAMHS as an inpatient care.

**[Explain the background and what has happened. Introduce the impact on the person or people concerned. Ensure the most urgent situations are flagged. E.g.:]** Speaking with you, and with the services copied into this email over the last week, I have attempted to resolve this, particular the risks to Ali. Despite this and prior repeated attempts to address concerns over the last year with the various services involved, the continues to be a lack of support for both Ali and Sami. Both are EOTAS, and yet not educational or care support has been put in place for over a year. Both children are highly distressed, and have had little opportunity to develop themselves, impacting wellbeing. Additionally, Al’s ARFID, which the Eating Disorders Service is refusing to provide care for despite the London Hospital confirming the urgent nature of his health needs, means he is at risk of inpatient readmission, the avoidance of which is the very purpose of the Dynamic Support Keyworker programme. On top of this is the impact on myself attempting to manage this situation trying to navigate between services whose services are disconnected, resulting in further distress to my children and myself. Despite the Local Authority’s commissioned carer assessment service confirming that I need PA support, the LA has refused to accept this.

**[Explain the legal duties on the officials involved, under the Human Rights Act. E.g.:]** Reviewing this situation, I believe that the legally protected human rights of my children, as well as myself, are now being put at serious risk by the Local Authority and NHS Services copied into this email. As I’m sure you’re all aware, each of the services copied into this email have a legal duty under section 6 of the Human Rights Act 1998 (HRA) to respect, protect and fulfil our human rights. The HRA legal duties, applies across all the actions, decision, and omissions of both local authorities and NHS services. Legally, under section 2 the HRA it is the foundation for your application of all other laws and your local policies and guidance; these do not trump human rights law, and your duties under the HRA.

**[Set out the absolute human rights issues first because these are absolute human rights and cannot be interfered with by public officials, so immediate action needs to be taken. E.g.]** I believe there are multiple ongoing risks, and likely breaches, of several rights under the Human Rights Act. Most urgently, I believe there is a risk that Al is being treated in an inhuman and degrading way under Article 3 of the HRA. His nutrition and hydration is currently dangerously low, yet he is being refused treatment and support by the Eating Disorder Service for AFIRD, and is now at risk of inpatient readmission, but left suffering until that happens. Article 3 is an absolute human right. This means it is never legal for services to treat someone in this way, and when they are at risk of this treatment there is a positive legal duty to step in protect. All services – the Keyworker, the LA team, CAMHS and the Eating Disorder Service - copied into this email are aware of the serious risks to Al, and yet no action has been taken to support him, a disabled child, which also raises concerns about his right to non-discrimination under Article 14 in the HRA.

**[Set out the non-absolute human rights issues, what they are and whether you think the 3-part test for restrictions has been met or not. Use a table to write out the human rights issues from using the Flowchart, like in Step 1 of Mo’s Story (p 42-44). E.g.:]** Additionally, there are a significant number of risks to Al, Sami and my own Article 8 human rights to a private and family life, which need to be addressed. Attached please find a breakdown of all the human rights I believe are being put at risk by the Keyworker, the LA team, CAMHS and the Eating Disorder Service for each of us; you will see the totality of human rights risks as a result of both decisions and actions, and the failure to act. Whilst our Article 8 human rights can be limited by the services copied into this email, this can only be done if you can show each limitation meets the 3 tests of (1) lawful, (2) for a legitimate aim and (3) proportionate. I do not believe these tests have been met, for any of the instances outlined in the attached table of Article 8 human rights at risk. Rather than a law permitting the interferences with Al, Sami and my Article 8 human rights, I believe there is a failure to comply with the positive obligation to step in and take reasonable action to safeguard these rights. All services are currently failing to take any steps to provide appropriate care and support, failing to meet their legal duty under the Human Rights Act. **[Make sure you include the impact on each person’s human rights and the impact on the family itself. E.g.:]** As you can see from the table this is having a significant impact on each of the family member’s human rights individually, and on the family as a whole, including the relationships between the siblings; all covered by Article 8

**[Set out any additional discrimination issues and why these cannot be reasonably and objectively justified. E.g.:]** Further, I believe the right to non-discrimination under Article 14 is also being risked by the services involved. The general the lack of action to safeguard Al and Sam’s Article 8 human rights appears to be related to different, i.e. worse, treatment of disabled children and their families. A specific example of discriminatory treatment is the Eating Disorders Service stating that they do get involved in ARFID cases. There also appears to be an overall lack of addressing the different position of disabled children in failing to provide educational and health support for both Al and Sami, which does not leave them worse off, and less able to access their human rights.

**[If your human rights, as a parent or carer are also being risked, you can raise these as well. E.g.:]** Finally, in terms of my own human rights, given the totality of the situation I believe not only my Article 8 rights are at risk, but that this is risking my Article 3 rights. The situation and lack of support is significantly impacting my mental resistance, and the PA support I need has now been refused by the LA as they will not accept a report from the service they have commissioned. As noted above, Article 3 is an

absolute human right, which means it is never lawful for services to treat people in this way.

**[Explain what next steps you would like to happen and who needs to be involved. Set a specific timeframe for then you expect a response. E.g.:]** I am therefore requesting the following actions to address the risks to the legally protected human rights of my children and myself:

* An urgent meeting, with CAMHS, SEND Support, Social Services, and the Eating Disorders Service, as all have the shared HRA legal duty to support and not breach our human rights. Given the urgency of the situation, I request a meeting be arranged with CAMHS and the Eating Disorder Services, in the next 5 days.
* As a priority we need to address the risks of inpatient readmission for Ali, the need for ongoing and preventative health support, and the wider issues about education and care support.
* A review of the ETOS support that has not been put in place for a year.
* The LA’s rejection of the carer’s assessment report stating that I require PA support, on the basis it is considered “badly written” needs to be revoked. The construction of the report is a matter for the LA to take up with the organisation it commissioned, not a basis on which to deny be support that puts my Article 8 rights as a parent carer, to wellbeing, at risk.

**[Request confirmation that your letter/ email has been received.. E.g.:]** Please can you confirm receipt of this email as soon as received. I request a response within 3 days, given the urgency of the Article 3 issues outlined in this letter.

**[Request any information you may need to escalate the matter if it is not resolved. E.g.:]** In your response please also provide the following information should I need to escalate urgently:

* the complaints process
* contact details for the clinical and nursing leads at the hospital
* contact details for the directors of children’s services.
* the relevant regulators and ombudsman for each of the services copied into this email.

Yours sincerely

Mo Shah