**Equally Ours – HRA/BOR Briefing**

**Disability Rights UK contribution**

* **We must protect the legal foundation.**

The Human Rights Act 1998 is the foundation of our basic human rights in this country. It’s not only the legal basis that protects our rights, but it’s also the tool that we can use to challenge rights violations when they take place.

**Withdrawing the Human Rights Act puts everyone at risk, but especially Disabled people whose rights are already too often seen as optional.**

Even with the Human Rights Act placing legal obligations on public services to ensure our rights are upheld in every decision they make, we still saw non-consensual DNRs during the COVID-19 pandemic, see abuse and neglect take place in health and care facilities, and face disproportionate barriers to accessing services.

Withdrawing the Human Rights Act would put Disabled people at huge risk of facing greater discrimination while simultaneously removing the legal basis by which we could challenge these rights violations.

* **Outside of the Human Rights Act, legal protections are often weaker for Disabled people.**

If we consider what is left if the Human Rights Act is removed, legal protections won’t be consistent across all groups.

The rest of the legal framework is already often weaker for Disabled people. For example, Disability Hate Crime is not a criminal offence, whereas other forms of hate crime are. We also already face additional barriers to accessing justice – from not being able to physically access inaccessible courts to facing discrimination by law enforcement, amongst other things.

* **The Human Rights Act protects us in so many ways, some key examples include:**
* **Positive obligations** (i.e., proactively intervening to ensure rights are protected, a legal duty to prevent foreseeable risks to our rights)**.**

The positive obligations set out in the Human Rights Act are essential to ensure Disabled people’s rights are delivered, particularly our right to life and right to be free from torture and degrading treatment.

* **Proportionality** (i.e., when rights are limited – e.g. if someone is sectioned or determined not to have capacity – there is a legal duty that these rights must be limited in the least restrictive way.)

Removing this duty and allowing the Government to decide what is a proportional limitation would remove vital protections from individuals most at risk of experiencing rights violations.

In a wider context – removing this check would also enable the Government to deliver blanket policies which may disproportionately impact Disabled people and our ability to access services.

We were very concerned that the public consultation on the Bill of Rights placed such a focus on safeguarding the “broader public interest” over individuals’ rights – as if the latter gets in the way of the former.

We must remember that the protection of Disabled people’s rights does not conflict with the wider public interest.

* **Access to justice**

The Human Rights Act is not only a useful legal tool that equips Disabled people to challenge human rights violations when they face them, but it’s also a cornerstone in empowering Disabled individuals to challenge the mistreatment they face and understand that the ableism that’s so often normalised is never acceptable.

The Bill of Rights aims to introduce a “permission stage”, where those taking violations to court will need to prove the significant impact it’s had on them before it’s taken forward. This not only creates an additional barrier to a criminal justice system that is already difficult to access as a Disabled person, but it also challenges the empowering truth that all human rights violations are unacceptable and victims of those violations deserve justice – no matter the level of presumed impact.

* **The context that this legislation sits in highlights how our rights aren’t prioritised and how we’ve been excluded from the conversation regarding them.**

**The Bill of Rights consultation was inaccessible.** After much pressure from groups and campaigners, 10 weeks into a 12-week consultation, the Government released an ‘easy read’ format which was not appropriate – it didn’t include pictures or meet the standards accepted as an easy read format. After continued pressure by many organisations, the Government released easy read and audio versions – but gave those who needed access to them, 6 weeks to respond instead of the initial 12 given to non-Disabled respondents.

In addition to Disabled voices being excluded in the consultation, **the UK is the first nation-state to face investigation under the UNCRPD convention for its violations of Disabled people's human rights.**

* **The Bill of Rights sets a dangerous precedent.**

The Bill of Rights begins to categorise those ‘deserving’ and ‘undeserving’ of human rights. For example, if you take a rights violation to court and it’s found in your favour, your past behaviour (e.g., criminal record etc.) will be taken into account before deciding what compensation you’re entitled to. This will lead to discrimination.

However, the biggest concern is that this sets the precedent that human rights are conditional. Human rights are not conditional.

**The immediate impacts of this bill will be catastrophic for everyone, especially Disabled people, but what’s almost more concerning is what will be enabled to follow this legislation.**

**The Human Rights Act cannot be withdrawn.**