

Care Homes Briefing

Number 69

Human Rights Act 1998: Parliament passes legislation applying the Human Rights Act to certain care home contracts

The Health & Social Care Act 2008 was finally passed in July. Section 145 provides that care home services provided under contract to a local authority will be subject to the Human Rights Act (as being a function of a public nature).

There is some small additional commentary in the Explanatory Notes to the Act.

The Notes confirm that as a result of Section 145, providers of care home services under contract to a local authority will be required not to act incompatibly with rights under the European Convention of Human Rights in providing these services. It will also mean that

individuals receiving such accommodation and care can take proceedings against the care home provider under the Human Rights Act if the provider breaches the individual's rights under the Convention. However Section 145 does not affect the issue of whether those in the private or voluntary sector who provide other forms of publicly funded care are to be regarded as exercising a public function¹

As yet the date that this provision is to come into force has not been fixed. Further information or assistance with the potential implications of this is available from RadcliffesLeBrasseur.

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For more information on Care Home Law contact Andrew Parsons at RadcliffesLeBrasseur on 020 7222 7040, or email: andrew.parsons@rlb-law.com.

Out of office emergency advice available 24hrs on 07802 506 306.

Readers are advised to take specific advice before acting in reliance on the matters set out in this briefing.

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¹ See paragraph 497, explanatory notes, Health & Social Care Act 2008