

Annex A:

The different ways people would be affected negatively by the UK Government's proposals to change the HRA:

- The undermining of privacy rights, as outlined in questions 4 and 5 of the consultation, stands to affect LGBTQIA+ people who have relied upon these rights to resist being outed.¹
- In relation to the proposal to introduce a permission stage, as outlined in questions 8 to 10 of the consultation, it is well-known that people with protected characteristics already experience barriers to accessing justice, especially in the aftermath of legal aid reforms.² Lack of effective access to justice undermines the rule of law and good administration and governance, and has a severe impact on people seeking to assert their rights. Creating new barriers will entrench these problems, with disproportionate effects on people with protected characteristics.
- The proposal on Positive obligations, as outlined in question 11 of the consultation could have a potentially catastrophic effect on people with protected characteristics, including but not limited to women who are survivors of domestic abuse, disabled people and LGBTQIA+ people.
- In relation to the proposal to repeal and replace Section 3 of the HRA, as outlined in question 12 of the consultation, section 3 of the HRA has been vital in the protection of rights for people with protected characteristics, for example relating to sexual orientation³ and religion and belief.⁴
- In relation to the proposals on qualified and limited rights, as outlined in question 23 of the consultation – the undermining of Article 8 in particular could deprive many people with protected characteristics of necessary protections, for example relating to gender reassignment,⁵ sexual orientation⁶ and disability.⁷
- The proposals in questions 24 and 25 of the consultation will have a disproportionate impact on people from an ethnic minority background, as criminal sentencing and deportation powers are disproportionately used against Black and Asian people, thus meaning that the proposals in this question are inherently discriminatory. Furthermore, these proposals will also have secondary effects, such as the further entrenchment of the hostile environment. This will have knock-on effects, for example negative health impacts on families and wider communities.⁸ The EHRC has previously found that the Home Office has acted unlawfully, as a result of its failure to comply with its duties under the Public Sector Equality Duty while

¹ BVC v EWF [2019] EWHC 2506 (QB).

² Equality and Human Rights Commission, Following Grenfell: Access to justice, 2019: <https://www.equalityhumanrights.com/sites/default/files/following-grenfell-briefing-access-to-justice.pdf>.

³ See, for example, Ghaidan v Godin-Mendoza [2004] UKHL 30.

⁴ For example, in reading into Article 9 to encompass non-religious views.

⁵ See: Goodwin v United Kingdom (2002) 35 EHRR 18.

⁶ See: BB v United Kingdom (2004) 39 EHRR 30.

⁷ See: Bernard v LB Enfield [2002] EWHC 2282 (Admin).

⁸ Sophie Weller and Rob Aldridge, The UK government's "hostile environment" is harming public health, The BMJ Opinion, 23 July 2019, <https://blogs.bmj.com/bmj/2019/07/23/the-uk-governments-hostile-environment-is-harming-public-health>.

- developing, implementing, and monitoring its hostile environment policies.⁹
- In relation to the proposals in question 27 of the consultation which stipulate that damages should be reduced in part or in full on account of the applicant's wider conduct – linking rights to responsibilities and limiting remedies for claimants on the basis of their conduct is likely to disproportionately impact individuals from over-policed communities, in particular, those with the protected characteristic of race.

⁹ Equality and Human Rights Commission, Assessment of hostile environment policies, 26 November 2020, <https://www.equalityhumanrights.com/en/inquiries-and-investigations/assessment-hostile-environment-policies>.