



**Institute for the  
Future of Work**

# Human Rights Act Reform: A Modern Bill of Rights

Institute for the Future of Work consultation response

**March 2022**

The Ministry of Justice (MoJ) has held a consultation, seeking views on proposed reforms to the Human Rights Act (HRA). The Institute for the Future of Work (IFOW) welcomed the opportunity to provide a response, which focused on the implication of the proposal on work, working lives and technology.

## **Our view**

We welcome the commitments made by the UK Government to retain the substantive rights protected under the HRA, incorporate a schedule of the text of Convention Rights and remain a signatory to the European Convention on Human Rights. But the current proposal has not yet given due consideration to significant impacts on work and working lives. This means that the proposal is likely to affect vulnerable working people, including those who have recently lost out on work, pay, terms or other benefits, more than others.

We therefore outline four key recommendations to help ensure that the Bill of Rights supports a strong Great Britain, capable of navigating new hazards at home, and standard-setting in technology regulation and good work abroad:

1. A British Bill of Rights should incorporate and express the principles of the Institute for the Future of Work's Good Work Charter.
2. Assessment of the impacts of new technologies on work and working lives will be necessary before proceeding with the proposal for a Bill of Rights.
3. New rights and positive obligations for people, public and private authorities are required to meet the challenges and opportunities posed by novel and emerging AI and algorithmic technologies.

4. The Ministry of Justice should work more closely with other Government departments to align policy and shape better outcomes for people and communities across the country.

## Our recommendations

1. **A British Bill of Rights should incorporate and express the principles in the Institute for the Future of Work's [Good Work Charter](#).**

The Good Work Charter articulates a broad set of principles for good work that enable and strengthen individual and collective flourishing. If the Bill of Rights incorporated the Good Work Charter, it could safeguard these preconditions of individual and collective flourishing which are fundamental British values. The Charter also acts as a synthesis of relevant rights and responsibilities, including human rights expressed through the HRA and the Government's own guidance on [AI Ethics and Safety](#). This approach would therefore support the UK in its global leadership role in the development of responsible technology innovation and governance at an axial moment in modern history.

## The Good Work Charter

1	<b>Access</b> Everyone should have access to good work
2	<b>Fair pay</b> Everyone should be fairly paid
3	<b>Fair conditions</b> Everyone should work on fair conditions set out on fair terms
4	<b>Equality</b> Everyone should be treated equally and without discrimination
5	<b>Dignity</b> Work should promote dignity
6	<b>Autonomy</b> Work should promote autonomy
7	<b>Wellbeing</b> Work should promote physical and mental wellbeing
8	<b>Support</b> Everyone should have access to institutions and people who can represent their interests
9	<b>Participation</b> Everyone should be able to take part in determining and improving working conditions
10	<b>Learning</b> Everyone should have access to lifelong learning and career guidance

2. **Assessment of the impacts of new technologies on work and working lives, including fundamental rights and freedoms, will be necessary.**

The proposal would include a permission stage for human rights claims that would require claimants to demonstrate that they have suffered a 'significant disadvantage' before their human rights claim can be heard in court.

We do not support this proposal because it is often not possible for an individual to identify a breach of a right, or the degree of harm they have suffered as a result of the use of AI at work or in everyday life. Key workers, working either in the gig economy or, [as our research finds](#), in traditional sectors into which ‘gig’ practices and ethos have spread through the pandemic, are most likely to be affected by this proposal.

The Institute’s analysis of legal protection in [our report on algorithmic fairness](#) – the final report of our cross-disciplinary Equality Task Force – points to additional impacts and hurdles brought about by the proliferation of AI and algorithmic systems to control access, management and behaviours at work. The Equality Task Force explored [how AI is being used in the workplace](#) and concluded that individual rights, including human rights, were not enough on their own to protect against patterns of structural inequality that such technologies can reinforce.

### **3. New rights and positive obligations for people, public and private authorities are required to meet the challenges and opportunities posed by novel and emerging AI and algorithmic technologies.**

The proposal aims to restrain the expansion of positive obligations on public authorities to prevent public service priorities from being impacted by human rights litigation.

But a primary function of human rights and duties is to encourage proactive assessment of impacts, including equality impacts, and then respond appropriately to findings. This response should depend on the circumstances of the case, including the severity and proximity of the harm under consideration. Risks and adverse impacts should be preempted in this way to improve outcomes and avoid reliance on costly, ex post facto claims. The focus on isolated cases of high-profile litigation in the consultation document offers an anecdotal frame of reference but does not address this fundamental point.

We propose the opposite of introducing new hurdles: existing human and labour rights should be bolstered with new overarching duties on firms which require the assessment of impacts of the new technologies on work and working lives, including the impact assessment on fundamental rights as technology is developed and deployed in the work place. These should come with new rights to fill gaps in protection, including those areas identified in [Mind the Gap](#) and [The New Frontier](#). The Government should initiate a wider consultation on additional rights and duties before proceeding with the proposal. A hands-off approach is not enough.

### **4. The Ministry of Justice should work more closely with other Government departments to align policy and shape better outcomes**

New rights and expressions of rights, which are difficult to formulate and harder to reformulate, will require broader consultation and coordination between departments, as well as with external stakeholders. We are concerned that the proposal for a Bill of Rights is not consistent with proposals to introduce new employment and flexible working rights

made by other departments. These consultations are not referenced or considered in the proposal under review.

We recommend that the Ministry of Justice work more closely across departments, including the Department for Levelling Up, Housing and Communities, Cabinet Office and AI Office to expand its evidence base, anticipate impacts on the future of work and align policy to shape better outcomes across the country.

## **Concluding remarks**

The Institute for the Future of Work's Good Work Charter offers an alternative foundation and anchor for a substantive British Bill of Rights consistent with the moral, social and economic programme envisaged in the 2022 Levelling Up White Paper, which aims to see *'people everywhere live longer and more fulfilling lives, benefiting from sustained rises in living standards and well-being'*. Meanwhile, the AI Strategy aims to protect people and *'safeguard our fundamental values.'*

A focus on the principles in the Charter would help the Government align the Levelling Up White Paper with the AI Strategy – and the proposal for a new Bill of Rights. This approach would also support the UK lead internationally in responsible governance and regulation of AI. In our view, restricting the force of human rights at a time that invites robust, global normative and policy responses, such as those contained in strong human rights regimes, would undermine this goal. A new focus on the Good Work Charter would therefore support better outcomes at home and abroad.

*The Institute for the Future of Work would like to thank Dr David Leslie and Helen Mountfield QC for their contributions. For further information about the HRA consultation or Good Work Charter please contact [Hannah@ifow.org](mailto:Hannah@ifow.org).*