2.8. Knowledge of human rights law and principles in an inpatient context

- An ability to draw on knowledge that the Human Rights Act places a legal duty on people working in a public authority to act in compatibility with human rights and (as far as possible) apply all laws, policy and guidance in a way that respects these rights

- An ability to draw on knowledge that key human rights principles (e.g. fairness, respect, equality, dignity and autonomy) apply to everyone, regardless of their background or circumstances
- An ability to draw on knowledge that human rights principles should always inform decision making
- An ability to draw on knowledge that human rights legislation and principles should inform the procedures associated with admission, inpatient stay and discharge, and the type and quality of care available to people at each of these stages

- An ability to draw on knowledge that absolute human rights can never lawfully be restricted (e.g. the right to life or the right not to be subjected to degrading treatment)

- An ability to draw on knowledge of the proportionate restriction of non-absolute rights, usually to protect someone with mental health issues or protect others who may be affected by that person's actions or behaviour
- An ability to draw on knowledge that any restrictions on non-absolute human rights need to be:
  - a. lawful (based on a law which sanctions that action, e.g. the Mental Health Act or Mental Capacity Act)
  - b. legitimate (i.e. based on a decision that can be justified (e.g. to protect a person or others from harm)
  - c. proportionate (i.e. after due consideration there is no alternative action that can be taken)
- An ability to draw on knowledge that the legal basis for any decision must be given (in an accessible form) to the child/young person (or their family/carers or advocate, if capacity is an issue)

- An ability to draw on knowledge that where non-absolute rights are restricted, practitioners should be able to show that they have met the three-stage test (a–c, above), taken the child/young person's other rights into account, and that any restriction is:
  - kept to the minimum possible
  - in proportion to the circumstances
  - assessed and applied on an individual basis
- An ability to draw on knowledge that restrictive practices should not be adopted as a blanket approach that affects all service users

- An ability to draw on knowledge that decisions related to the Mental Health Act should be compatible with human rights
- An ability to draw on knowledge that because there are particular risks to fairness when people are compulsorily detained under the Mental Health Act, all service users should:
  - understand their rights and how to claim them
  - have an opportunity to challenge reports and other evidence which led to their detention
  - have the opportunity to be represented at a tribunal hearing
  - have the right to legal representation

- An ability to draw on knowledge that, based on human rights principles, all service users should:
  - receive care that respects their personal and cultural needs
  - be treated equally, without discrimination and with respect