Gofal Cymdeithasol **Cymru**
Social Care **Wales**

# Yr Ymarferydd Gwasanaethau Cymdeithasol

## Deddf Hawliau Dynol (1998)

# Social Services Practitioner

## Human Rights Act (1998)

Noddir gan Llywodraeth Cymru
Sponsored by Welsh Government

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## Sgiliau Astudio / Study Skills

- Cyfeirnodi / Referencing
- Darllen / Reading
- Ysgrifenu / Writing
- Myfyrdod Beirniadol / Critical Reflection
- Cyfathrebiad / Communication
- Gwaith Grŵp / Group Work
- Cyflwyniad / Presentation
- Ymchwil / Research
- Sgiliau rhyngbersonol / Interpersonal Skills

## Sgiliau Astudio Cudd / Hidden Study Skills

| | |
|---|---|
| Peidiwch ag anghofio bod amrywiaeth o sgiliau wedi'u gwreiddio, gan gynnwys... | Don't forget there are a range of skills embedded including... |
| Trefniadaeth | Organisation |
| Cadw amser | Time keeping |
| Cynllunio | Planning |
| Cymryd nodyn | Note taking |
| Cynllunio Traethawd | Essay planning |
| Gwrandawiad | Listening |
| Datrys problemau | Problem solving |
| Penderfyniadau | Decision making |
| Cwestiynu | Questioning |
| Siarad yn effeithiol | Effective speaking |
| Cyfathrebu llafar | Verbal communication |
| Efallai y bydd rhai o'r rhain yn rhan o'ch sgiliau rhyngbersonol hefyd. | Some of these may form part of your Interpersonal Skills too. |

Gofal Cymdeithasol Cymru
Social Care Wales

www.gofalcymdeithasol.cymru
www.socialcare.wales

## Facilitator notes

**WELSH**

Cyn mynychu, mae'n ofynnol i ddysgwyr gael mynediad at gopi digidol neu gopi caled o'u Cod Ymarfer/Ymddygiad perthnasol gan gynnwys fersiwn 'i Gyflogwyr', rheoliadau RISCA a swydd ddisgrifiad, ac unrhyw ganllawiau ymarfer perthnasol eraill.

**ENGLISH**

Prior to attending, learners are required to have access to a digital or hard copy of their relevant Code of Practice/Conduct including ‘for Employers’ version, RISCA regulations and job description, and any other relevant practice guidance.

"Gwrthod i bobl eu
hawliau dynol yw herio
eu
dynoliaeth sylfaenol"

- Nelson Mandela -

"To deny people their
Human rights is to
challenge their
very humanity"

- Nelson Mandela -

## Nodau

- Cael gwybodaeth sylfaenol am beth yw hawliau dynol
- Myfyrio ar sut y gall gwrthdaro godi

## Aims

- Gain a basic knowledge of what human rights are
- Reflect on how conflicts can arise

## Amcanion

- Gwybod sut mae Deddf Hawliau Dynol 1998 yn berthnasol i bobl
- Gallu defnyddio dull seiliedig ar hawliau o ran y broses asesu.

## Objectives

- Know how the human rights Act 1998 relates to people
- To be able to apply a rights based approach to the assessment process.

## Beth yw hawliau dynol?

- Ar eich pen eich hun ysgrifennwch yr hyn rydych chi'n credu yw hawliau dynol
- Pam fod y darn hwn o ddeddfwriaeth yn bwysig i weithwyr gofal cymdeithasol ei ddeall?

## What are human rights?

- On your own write down what you think human rights are.
- Why this piece of legislation important for social care workers to understand?

## Hawliau Dynol…

'yw hawliau sylfaenol i driniaeth urddasol drugarog a phethau y dylwn gael mynediad atynt dim ond oherwydd fy mod yn fod dynol'
-Defnyddiwr gwasanaeth

'Mae hawliau dynol yn golygu cymryd rhan mewn penderfyniadau am fy mywyd'
-Defnyddiwr gwasanaeth

## Human Rights…

'are basic rights to humane dignified treatment and things I should have access to simply because I am a human being'
-Service user

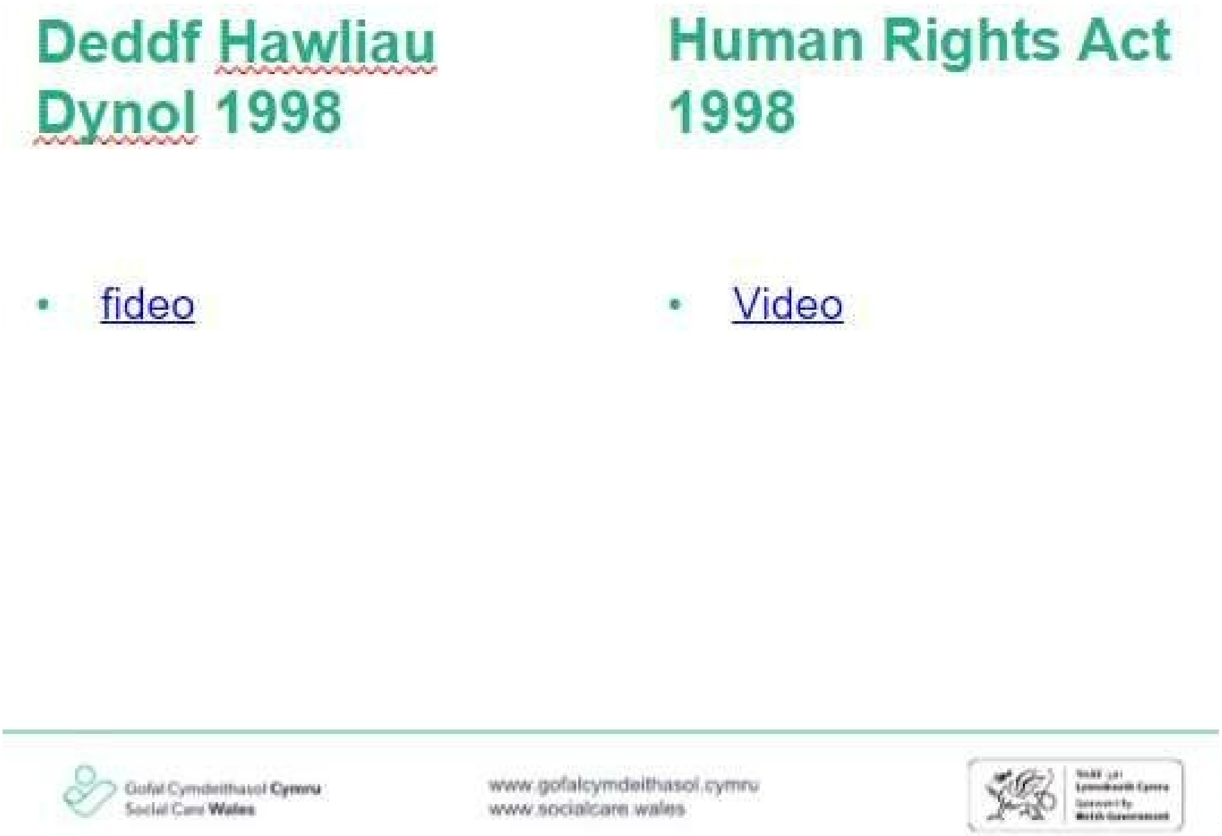
'Human rights means getting involved in decisions about my life'
-Service user

# Yn sylfaenol i ofal cymdeithasol!

Mae hawliau dynol yn arbennig o bwysig i weithwyr gofal cymdeithasol wrth gyfrannu at benderfyniadau sy'n ymwneud ag anghenion gofal unigolion yn y dyfodol.
Efallai y gall bod yn ymwybodol o hawliau dynol y person roi hyder i ymarferwyr herio penderfyniadau annheg yn ôl yr angen.

# Fundamental to social care!

Human rights are particularly important for social care workers when contributing to decisions that concern the future care needs of individuals. Having an awareness of the person's human rights can perhaps give practitioners confidence to challenge unfair decisions as required.




**WELSH**

Cyswllt Fideo - https://youtu.be/VO7oS8PqkJY?si=9j11CBqDGY0O_Bdr

**ENGLISH**

Video Link - https://youtu.be/VO7oS8PqkJY?si=9j11CBqDGY0O_Bdr

# Deddf Hawliau Dynol 1998

Mae Deddf Hawliau Dynol 1998 (y Ddeddf neu'r HRA) yn nodi'r hawliau a'r rhyddid sylfaenol y mae gan bawb yn y DU hawl iddynt.

•Mae'n ymgorffori'r rhan fwyaf o'r Confensiwn Ewropeaidd ar Hawliau Dynol [ECHR] yn y gyfraith yng Nghymru a Lloegr

•Yn amddiffyn rhag ymyrraeth ddiangen y wladwriaeth

# Human Rights Act 1998

- The Human Rights Act 1998 (the Act or the HRA) sets out the fundamental rights and freedoms that everyone in the UK is entitled to
- Incorporates most of the European Convention on Human Rights [ECHR] into law in England and Wales
- Gives protection from the unwarranted interference of the state

## Yr hawliau a gynhwysir yn y Ddeddf Hawliau Dynol yw:

Erthygl 2: Yr hawl i fywyd
Erthygl 3: Yr hawl i beidio â chael eich arteithio na'ch trin mewn ffordd annynol neu ddiraddiol
Erthygl 4: Yr hawl i fod yn rhydd rhag caethwasiaeth neu lafur gorfodol
Erthygl 5: Yr hawl i ryddid
Erthygl 6: Yr hawl i achos teg
Erthygl 7: Yr hawl i beidio â chael eich cosbi am rywbeth nad oedd yn erbyn y gyfraith
Erthygl 8: yr hawl i barch at fywyd preifat a theuluol, cartref a gohebiaeth
Erthygl 9: Hawliau i ryddid a meddwl, cydwybod a chrefydd

Erthygl 10: Yr hawl i ryddid mynegiant
Erthygl 11: Yr hawl i ryddid i ymgynnull a chymdeithasu
Erthygl 12: Yr hawl i briodi a chael teulu
Erthygl 14: Yr hawl i beidio â dioddef gwahaniaethu mewn perthynas ag unrhyw un o'r hawliau a gynhwysir yn y Confensiwn Ewropeaidd
Erthygl 1, Protocol 1: Yr hawl i fwynhad heddychlon o eiddo
Erthygl 2, Protocol 1: Yr hawl i addysg
Erthygl 3, Protocol 1: Yr hawl i etholiadau rhydd
Erthygl 1, protocol 13: Diddymu'r gosb eithaf

## The rights contained in the Human Rights Act are:

Article 2: Right to life
Article 3: Right not to be tortured or treated in an inhuman or degrading way
Article 4: Right to be free from slavery or forced labour
Article 5: Right to liberty
Article 6: Right to a fair trail
Article 7: Right not to be punished for something which wasn't against the law
Article 8: right to respect for private and family life, home and correspondence
Article 9: Rights to freedom and thought, conscience and religion
Article 10: Right to freedom of expression
Article 11: Right to freedom of assembly and association
Article 12: Right to marry and found a family
Article 14: Right not to be discriminated against in relation to any of the rights contained in the European Convention
Article 1, Protocol 1: Right to peaceful enjoyment of possessions
Article 2, Protocol 1: Right to education
Article 3, Protocol 1: Right to free elections
Article 1, protocol 13: Abolition of the death penalty

- Mae rhai o'r hawliau a warchodir gan y Ddeddf Hawliau Dynol yn **absoliwt** – ni ellir byth ymyrryd â nhw am unrhyw reswm

- Mae rhai o'r hawliau **nad ydynt yn absoliwt** gallant gael eu cyfyngu neu eu rhwystro am rai rhesymau ac mewn rhai amgylchiadau

- Some of the rights protected by the Human Rights Act are **absolute** – they can never be interfered with for any reason

- Some of the rights are **not absolute** they can be limited or restricted for certain reasons and in certain circumstances

# Gwaith grŵp

# Group work

- Mewn grŵp penderfynwch pa rai o'r hawliau hyn sy'n:
  - Absoliwt
  - Heb fod yn absoliwt

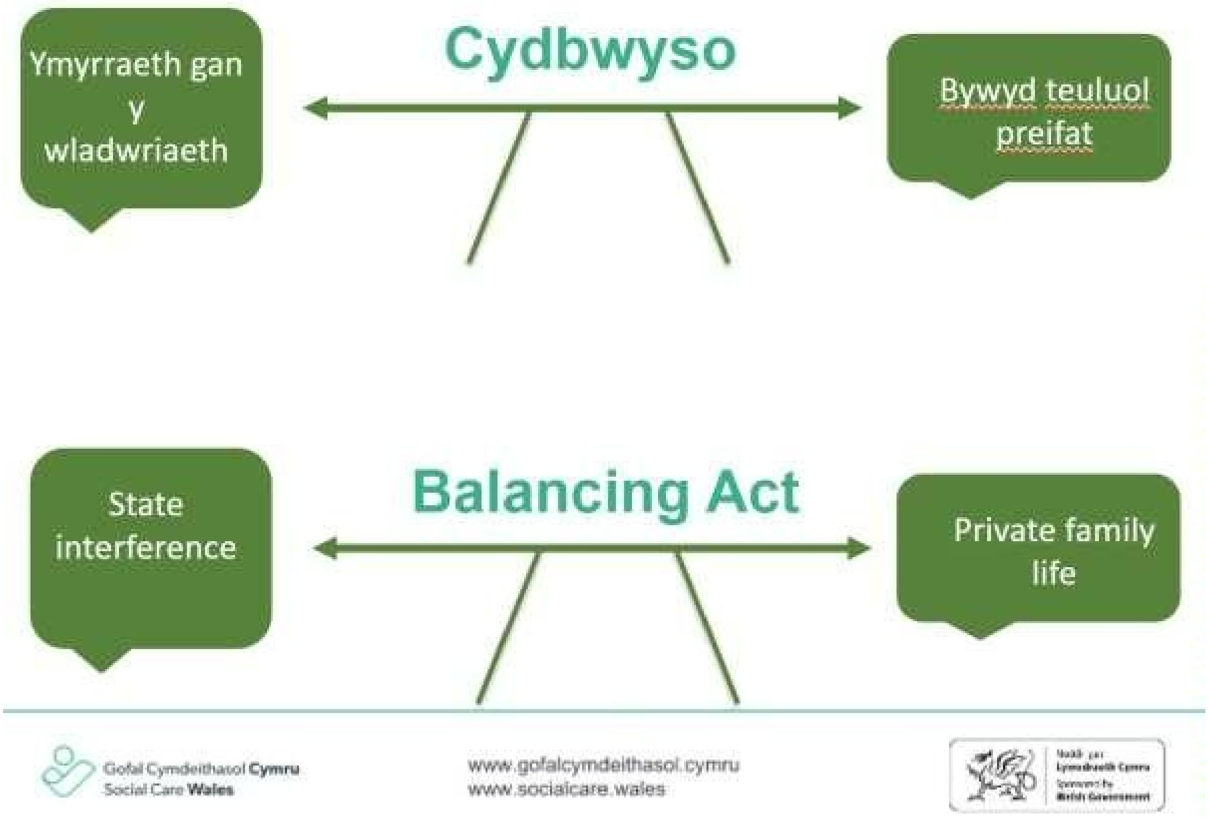
- In a group decide which of these rights are:
  - Absolute
  - Not absolute

- Yr hawl i ryddid
- Yr hawl i barch at fywyd preifat a theuluol
- Rhyddid mynegiant
- Yr hawl i fywyd

- Ar gyfer pob hawl nad yw'n absoliwt yn eich barn chi, meddyliwch am enghraifft o sut y dylid ei chyfyngu

- Right to liberty
- Right to respect for private and family life
- Freedom of expression
- Right to life

- For each right you think is not absolute, think of an example of how it should be restricted


Cydbwyso
Ymyrraeth gan y wladwriaeth
Bywyd teuluol preifat
Balancing Act
State interference
Private family life
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Social Care Wales
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www.socialcare.wales

# Cymesuredd

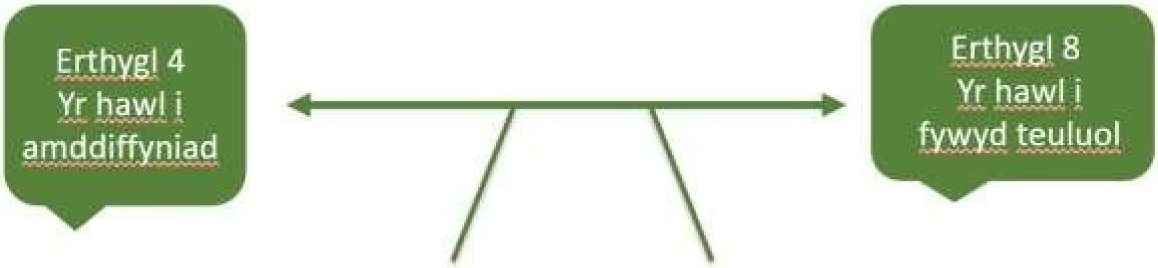
Senario: mae cartref gofal yn penderfynu cael polisi cyffredinol o osod teledu cylch cyfyng yn ystafelloedd gwely'r holl breswylwyr, am resymau diogelwch.
Canlyniad – mae hyn yn ymyrryd â hawl pob preswylydd i barch at fywyd preifat.

Dull amgen – Gwneir penderfyniad mai dim ond preswylwyr sy'n peri risg iddynt hwy eu hunain a/neu eraill fydd â theledu cylch cyfyng yn eu hystafelloedd. Bydd y penderfyniad hwn yn cael ei wneud fesul achos.
Canlyniad – amharir ar hawl i barch at fywyd preifat rhai trigolion er eu diogelwch eu hunain neu ddiogelwch eraill; ni amharir ar hawl i barch at fywyd preifat trigolion eraill.

# Proportionality

Scenario: a care home takes a decision to have a blanket policy of placing CCTV in the bedrooms of all residents, for safety reasons.
Outcome – this interferes with the right to respect for private life of all residents.

Alternative – A decision is made for that only residents who pose risk to themselves and/or others will have CCTV in their rooms. This decision will be made on a case by case basis.
Outcome – some residents have their right to respect for private life interfered with for their own safety or the safety of others; other residents do not have their right to respect for the private life interfered with.


Erthygl 4
Yr hawl i
amddiffyniad
Erthygl 8
Yr hawl i
fywyd teuluol

Article 4
Right
protection
Article 8
Right to family
life

## Erthygl 2 Hawl i Fywyd

Yn amddiffyn eich hawl i fywyd
•Mae hefyd yn ei gwneud yn ofynnol i'r llywodraeth gymryd mesurau priodol i ddiogelu bywyd gyda chyfreithiau amddiffynnol ac mewn rhai achosion i gymryd camau i amddiffyn eich bywyd os yw eich bywyd mewn perygl
•Yn cael ei ystyried yn hawl absoliwt

## Article 2 Right to Life

•Protects your right to life

•Also requires the government to take appropriate measures to safeguard life with protective laws and in some cases to take steps to protect your life if your life is at risk

•Considered to be an absolute right

## Erthygl 2 Yr Hawl i Fywyd

- Ond ni chafodd ei thorri pan wahanwyd efeilliaid cyfun, er bod marwolaeth un ohonynt yn anochel

## Article 2 Right to Life

- But not breached when conjoined twins were separated, even though death for one was inevitable

## Erthygl 3: Yr hawl i Amddiffyniad

- Cefnogaeth gan ddyletswyddau cyfreithiol i amddiffyn oedolion a phlant
- Ond ni chafodd ei thorri pan gafodd claf seiciatrig ei rwystro yn ei wely am 14 diwrnod oherwydd *yr oedd yn angenrheidiol dan yr amgylchiadau*.
- A yw'n cael ei thorri os yw rhiant yn taro ei blentyn?
- A yw'n cael ei thorri os bydd plentyn 18 mis oed yn cael ei adael yng ngofal ei frawd neu chwaer 6 oed?

## Article 3: Right to Protection

- Supported by duties in law to safeguard adults and children
- But not breached when a psychiatric patient was restrained to a bed for 14 days because *it was necessary in the circumstances*.
- Is it breached if a parent smacks their child?
- Is this breached if an 18 month old child is left in the care of their 6 year old sibling?

## Erthygl 8: Hawl i Fywyd Teuluol Preifat

- Cefnogir gan yr hawliau i gyfrinachedd
- Cefnogir gan geisiadau gorchymyn preswyl.
- Ceisiadau neiniau a theidiau – rhagdybiaeth mai “teulu naturiol” sydd orau
- Heb ei thorri gan ddyletswydd A47 i ymchwilio
- Wedi'i thorri gan rannu gwybodaeth yn anghywir

## Article 8: Right to Private Family Life

- Supported by the rights to confidentiality
- Supported by Residence order applications.
- Grandparent applications – presumption that “natural family” is best
- Not breached by S47 duty to investigate
- Breached by wrongful information sharing

## Mesur Hawliau Plant a Phobl Ifanc (Cymru) 2011

Gosod dyletswydd ar Weinidogion Cymru a'r Prif Weinidog i roi sylw dyledus i hawliau a rhwymedigaethau **Confensiwn y Cenhedloedd Unedig ar Hawliau'r Plentyn** (CCUHP) a'i brotocolau dewisol, wrth wneud penderfyniadau o natur strategol ynghylch sut i arfer swyddogaethau sy'n arferadwy ganddynt.

## Right of Children and Young Persons (Wales) measure 2011

Impose duty upon the Welsh Ministers and the First Minsters to have due regard to the rights and obligations to the **United Nations Convention on the Rights of the Child** (UNRC) and its optional protocols, when making decisions of a strategic nature about how to exercise functions which are exercisable by them.

## Astudiaeth achos

- Pa hawliau dynol sy'n gysylltiedig â'r achos hwn?
- I bwy mae'r hawliau'n perthyn?
- A oes hawliau sy'n gwrthdaro? / sut ydych chi'n meddwl y dylid cydbwyso'r hawliau hyn?

## Case study

- What human rights are involved in this case?
- Who do the rights belong to?
- Are there conflicting rights? / how do you think these rights should be balanced?

## Cyfiawnhad dros "doriadau"

1.C. O'r hyn yr ydym wedi'i drafod heddiw - Beth yw rai enghreifftiau o Gyfiawnhad dros Doriadau?

2.Hawliau pobl eraill
3.Amddiffyn iechyd neu foesau
4.Diogelwch Cenedlaethol
5.Atal trosedd ac anhrefn

## Justification for "breaches"

1. Q. From what we have covered today - What are some of the Justifications for Breaches?

2. The rights of other people
3. Protection of health or morals
4. National Security
5. Prevention of crime and disorder

## Dull seiliedig ar hawliau

- Cofnodwch yr hyn a wnewch yn ofalus
- Cydymffurfiwch â'r gyfraith a chanllawiau
- Cyfiawnhewch eich penderfyniadau
- Sicrhewch atebolrwydd
- Grymuso
- Cyfranogiad ac ymgysylltiad
- Peidio â gwahaniaethu a rhoi sylw i unigolion/grwpiau yr ydych yn eu cefnogi

## A right based approach

- Record what you do carefully
- Comply with the law and guidance
- Justify your decisions
- Ensure accountability
- Empowerment
- Participation and involvemen
- Non-discrimination and attention to individuals/groups you are supporting

## Deddf Gwasanaethau Cymdeithasol a Llesiant Cymru 2014

Mae angen i chi wybod yr hawliau sydd gan oedolion a phlant a gweithio i'w cynnal

- Confensiwn y Cenhedloedd Unedig ar Hawliau'r Plentyn
- Egwyddorion y Cenhedloedd Unedig ar gyfer Pobl Hŷn
- Confensiwn y Cenhedloedd Unedig ar Hawliau Pobl Anabl
- Confensiwn Ewropeaidd ar Hawliau Dynol

## Social Services and Well-being Wales Act 2014

You need to know the rights that adults and children have and work to uphold them

- United Nations Convention on the Rights of the Child
- United Nations Principles for Older persons
- United Nations Convention on the rights of Disabled People.
- European Convention of Human Rights

## Dull seiliedig ar hawliau

- Cofnodwch yr hyn a wnewch yn ofalus
- Cydymffurfiwch â'r gyfraith a chanllawiau
- Cyfiawnhewch eich penderfyniadau
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## Myfyrio

- Mae hawliau dynol yn arbennig o bwysig i weithwyr gofal cymdeithasol wrth wneud penderfyniadau sy'n ymwneud ag anghenion gofal unigolion yn y dyfodol.
- Gall bod yn ymwybodol o hawliau dynol y person hefyd roi'r hyder i ni herio penderfyniadau annheg.

## Reflection

- Human rights are particularly important for social care workers when making decisions that concern the future care needs of individuals.
- Having an awareness of the person's human rights can also give us the confidence to challenge unfair decisions.