



Human Rights – A Catalyst for Improved Public Services

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What is a human right?



- A human right is an entitlement: you do not have to deserve it or earn it, it is yours because you are a **human being**
- Human rights are “universal, inalienable, indivisible and interdependent”



European Convention on Human Rights (ECHR)



- The key **Council of Europe** instrument
- Protects a range of rights, from the right to life to the right to a fair hearing
- Mostly civil and political rights, but includes the right to education
- **European Court of Human Rights:**
individual v state / state v state



Key Convention Rights



- Right to life
- Right to a fair hearing
- Right to liberty
- Freedom of thought, conscience and religion
- Freedom of expression
- Equality in enjoyment of Convention rights



The Human Rights Act 1998



- Came into effect in 2000
- Most European Convention rights directly protected in local courts (no need to “go to Strasbourg”)
- Duty on government: legislation must normally comply
- Duties on public bodies/authorities
- Victim can take a case if there has been a breach



Duty on a 'public authority'



- Section 6 (1) It is unlawful for a public authority to act in a way which is incompatible with a Convention right
- Public authorities have obligations to promote and protect human rights
- The Act applies to all public authorities (such as central government departments, local authorities and other bodies performing public functions (such as private companies operating prisons)
- These organisations must ensure that they are acting compatibly with the Convention rights when providing a service or making decisions about individuals





- A public authority has a duty to stop people or companies abusing human rights. For example, a public authority that knows a child is being abused by its parents has a duty to protect the child from inhuman or degrading treatment
- The Act urges public authorities to apply a human rights framework to decision making across public services in order to achieve better service provision
- Applying a 'human rights framework' means including core human rights values, such as equality, dignity, privacy, respect and involvement in decision making, whether a public service is being delivered directly to the public or a new plan or procedure is being devised
- Public authorities must take human rights into account in their everyday work





- Public officials must therefore understand human rights and take them into account in their day to day work
- This is the case whether officials are delivering a service directly to the public or devising new policies or procedures. Understanding human rights can help in making the right decisions
- Adopting a human rights approach can improve the quality of public services by boosting efficiency and consumer satisfaction
- Low awareness is a legal risk
- There is increasing focus on public authorities' human rights performance



The Nature of Rights



- The rights not to be tortured, enslaved or to suffer retrospective penalties are the only **absolute** rights
- All other rights are **limited** by conditions such as national security, public safety, prevention of disorder, protection of the rights of others, etc.



How Rights Work



- Is a right **engaged**?

A complaint under the Human Rights Act must be about one or more of the rights protected by it. For example, rules regarding dress code in an office would be relevant to the right to respect for private life.





- Has a right been **interfered** with?

The next stage is to consider whether there has been an interference with the right concerned. For example, excessive delay in tribunals may be an interference with the right to a fair hearing.





- Is there a **law** allowing the public authority to interfere with the right?
- Is the public authority pursuing a **legitimate aim** in interfering with the right?
- Is the authority's action **proportionate**?
(Must not go beyond what is strictly necessary to achieve the objective)





- When it comes to decision making, the rights of one person often have to be balanced against the rights of others or against the needs of the broader community
- But if you have to restrict somebody's rights, you must make sure that you are not using a sledgehammer to crack a nut. Any restriction must be no greater than is needed to achieve the objective - 'proportionality'.

