

Human Rights Act Advocacy Flowchart

If it is not a public official making the decision, then the Human Rights Act will only apply if you alert an official who has responsibility to deal with the decision maker, e.g. the police if there is a crime, commissioners of a service, etc. If not the HRA does not apply

STEP 1: WHAT IS THE DECISION INTERFERING WITH HUMAN RIGHTS?

Is it a decision that restricts access to support? A failure to protect? A process causing distress?

Move to step 2 when you are clear about what the decision, action or failure to act is.

STEP 2: WHO MADE THE DECISION?

Remember it must be a public official, e.g. staff at a Local Authority, in the NHS, etc.

Move to Step 3 if a public official(s) made the decision etc. If you're not sure go to box above.

STEP 3: WHO IS AFFECTED?

Human rights apply to the child and family members.

Move on to step 4 to decide whether the impact is about human rights

STEP 4: ARE YOUR ARTICLE 8 RIGHTS BEING AFFECTED?

Is there an interference with any of the 4 parts in the right to respect for private and family life (Article 8, Human Rights Act)?

PRIVATE LIFE

Does the decision interfere with wellbeing, exercising choice, relationships with others, participation in the community, information privacy?

FAMILY LIFE

Does the decision interfere with the ability of individuals in a family and/or family unit to maintain family life, and keep in contact if split up?

ENJOYMENT OF HOME

Does the decision effect the ability of individuals in the family and/or the family unit to enjoy the home they have together?

CORRESPONDENCE

Does the decision interfere with the ability to communicate privately with other people, whether in writing, verbally, or electronically?

YES

STEP 5: IS THE INTERFERENCE ALLOWED?

Does the official's interference pass ALL 3 of the tests to limit Article 8 rights? If any of the 3 tests are not passed, the interference with your Article 8 rights is not allowed.

(1) LAWFUL:

Is there law that allows the action, decision, etc. which is interfering with the Article 8 human rights? (Ask the official which law!)

(2) LEGITIMATE AIM:

Is there a legitimate aim as written down in Article 8 for the decision, action, etc. which is interfering with the Article 8 human rights? This is usually to protect the person or wider community. (Ask the official which aim they are trying to meet).

(3) PROPORTIONATE:

Is the decision, action, etc. which is interfering with the Article 8 human rights proportionate to the aim? (Think about whether there are other alternatives that could have been put in place that interfere less with the rights).



YES

NO

NO

LIKELY TO BE RISKING HUMAN RIGHTS

The decision, action, etc. is likely not allowed under the Human Rights Act. Go to Changes Checklist (page 38) & Steps for Action (page 39)

UNLIKELY TO BE RISKING HUMAN RIGHTS

The decision, action, etc. is likely allowed under the Human Rights Act. If things changes do the Flowchart again to check human right issues.

STEP 6: REMEMBER TO ALSO CONSIDER IS DISCRIMINATION AN ISSUE?

Have you been treated worse than other people in a similar situation or are you not being treated differently when you are in a different situation to help you access your human rights? If you think it's likely that your Article 8 rights are being breached and that discrimination is an issue this makes the risk to your human rights more serious.

REMEMBER this is an absolute human right, officials are not allowed to interfere with this right and must act immediately

STEP 7: REMEMBER TO ALSO CONSIDER IS THERE INHUMAN OR DEGRADING TREATMENT?

Has a decision, action or failure to act serious impacted your dignity, causing serious physical or mental harm? This could be one big decision, action or failure to act or the build-up of lots of incidents having this impact on you. Is discrimination also an issue and adding to the harm?