

South Ayrshire Council Equality Impact Assessment Guidance

Background

The Equality Act 2010 requires the Council to have 'due regard' to the need to eliminate unlawful discrimination, harassment and victimisation as well as to advance equality of opportunity and foster good relations between people who share a protected characteristic and those who do not i.e.

- age,
- disability,
- race,
- sex
- gender reassignment,
- pregnancy and maternity,
- sexual orientation
- religion or belief (including non-belief) and
- marriage and civil partnerships (in respect of eliminating unlawful discrimination).

In addition, the Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012 came into force in May 2012 and included the duty to equality impact assess (EIA) all:

- policies,
- strategies,
- procedures,
- processes,
- financial decisions (this includes proposals to outsource or procure any of the functions of an organisation).,
- the full range of functions, and
- activities (including service delivery)

both new and at review, that affect the Council's communities and employees i.e. potentially anything the Council does. It is important to note that the impact and relevance of a proposal does not just depend on the number of those people and groups who are affected, but also by the significance of the effect on them.

To meet the duty to give "due regard" to the equality duty, an equality impact assessment should be undertaken at the start of proposed activities, procedures and processes etc. being planned, developed and reviewed. The EIA process also ensures that any unintended actual or potential unlawful discrimination is prevented before it is presented to Council/Panel Therefore, it is not acceptable to prepare an EIA merely to meet the Council/Panel Report timetable.

Similarly equality impact assessments must not be retrospectively completed, as this would render any decision on a proposal requiring an EIA unlawful, as is demonstrated by recent case law.

Roles and Responsibilities

It is the responsibility of officers to provide as full information on potential positive and negative equality impacts to Elected Members as necessary, to ensure that they can meet their statutory responsibility, to give due regard to equality and diversity within the decision-making process.

All proposals being submitted for approval by Panel or Full Council should have one of the following signed off by Heads of Service.

- a. a completed equalities scoping document (which details the rationale for not proceeding to completion of an EIA), or
- b. a full equality impact assessment (EIA)

Executive Directors will then satisfy themselves that Council/Panel reports include adequate access to the accompanying Scoping Document or EIA.

It is the responsibility of Elected members to satisfy themselves that the information provide within Equalities Scoping Documents or Full Equality Impact Assessments are sufficiently robust and given appropriate weighting in decision-making processes to enable appropriate consideration of potential equality impacts of the proposals before them for approval and act on the findings of the impact assessments.

Council/Panel Report Equalities Section Narrative

In the Equality Section of the Council/Panel report, dependent on the significance of the equality impacts and the requirement for mitigating actions, insert one of the following statements or, if these options do not meet the circumstances of your proposal, please contact equalities@south-ayrshire.gov.uk:

- a. "The purpose of this report is to allow scrutiny of performance. The report does not involve proposals for policies, strategies, procedures, processes, financial decisions and activities (including service delivery) both new and at review, that affect the Council's communities and employees therefore an equality impact assessment is not required."
- b. "The proposals in this report have been assessed through the Equality Impact Assessment Scoping process and there are no significant positive or negative equality impacts of agreeing the recommendations, therefore an EIA is not required. A copy of the Equalities Scoping Assessment is attached as Appendix XXX

or

- c. The proposals in this report were recently equality impact assessed and, as the completed EIA still applies, it is attached as Appendix XXX.

or

- d. This report provides an update on progress of a recent Council/Panel report, which was assessed for potential equality impacts, and the relevant documentation is attached as Appendix XXX.

or

- e. "An Equalities Impact Assessment has been carried out on the proposals contained in this report which identifies potential positive and negative equality impacts and any required mitigating actions. The EIA is attached as Appendix XXX.

Once the proposal is included as part of a Council/Panel papers, a copy of the attached Equality Impact Assessment Scoping Document or Full Equality Impact Assessment appendix must be sent to the Policy and Performance Service - equalities@south-ayrshire.gov.uk who will arrange for the documents to be published (**as this is a statutory requirement**) in the Equality and Diversity Section of the Council's website.

Advice is available here: Lorraine Finlayson, Strategic Management Officer,
Policy and Performance
lorraine.finlayson@south-ayrshire.gov.uk

How to Complete the Equalities Scoping Template

South Ayrshire Council Equality Impact Assessment - Scoping

1. Proposal details

Proposal Title	Insert the name of the proposal, policy, procedure, service, function etc. that is being considered. <i>From here onwards in the documentation this will be referred to as the proposal.</i>
Lead Officer	Insert the name of the key individual responsible for the management of the proposal being considered. This facilitates continuity and reference at a later date.

2. Which communities, groups of people, employees or thematic groups do you think will be, or potentially could be, impacted upon by the implementation of this proposal? Please indicate whether these would be positive or negative impacts

The purpose of this section is to highlight what communities or groups you are likely to need to take into consideration within the equality impact assessment process. Since most of the Council's services are people centred, and have a direct impact on people at some time, it is likely that most proposals will impact on all or some of these groups,

There is no need to discuss at this stage how or when the needs of these specific groups of people will be met. Instead, it is sufficient to indicate whether there are likely to be positive or negative impacts on these communities or groups if the proposal is implemented. It also helps to show at a glance any proposals that do not deliver services to these groups of people. i.e. are there any groups that we are not considering or missing out.

Community or Groups of People	Negative Impacts	Positive impacts
The whole community of South Ayrshire		
People from different racial groups, ethnic or national origins		
Women and/or men (boys and girls)		
People with disabilities		
People from particular age groups for example older people, children and young people		
Lesbian, gay, bisexual, and heterosexual people		
People who are proposing to undergo, are undergoing or have undergone a process to change sex		
Pregnant women and new mothers		
People who are married or in a civil partnership		
People who share a particular religion or belief		
Thematic Groups: Health and Wellbeing, Human Rights, Rurality and Deprivation.		

Insert
Yes, No or Unsure
in each of the boxes to show that they have all been considered, rather than having been omitted.

3. Do you have evidence or reason to believe that the proposal will support the Council to: ---

The purpose of this section is to determine if and how the proposal supports the Council to meet its general equality duties and local equality themes.

- **Evidence** refers to available local and national research, consultation and feedback from service users or employees.
- **Reason to believe** allows for the situation where no evidence is available, but educated assumptions can be made.

In assessing the level of impact consider questions such as those in italics below:

General Duty and other Equality Themes	Level of Negative and/or Positive Impact (high, medium or low)
Eliminate discrimination and harassment faced by particular communities or groups <i>Could this proposal reduce or help make progress towards reducing discrimination and harassment for particular communities or groups, including employees?</i>	<div style="border: 1px solid black; padding: 10px; background-color: #e6f2ff;"> <p>Consider each duty or equality theme in turn and then decide on the appropriate level of positive and negative impacts for this</p> <p>Then insert High, Medium or Low in each of the boxes to show they have all been considered.</p> </div>
Promote equality of opportunity between particular communities or groups <i>Could the implementation of this proposal improve or reduce access to the service provided for any groups?</i>	
Foster good relations between particular communities or groups <i>Could this proposal improve or cause a deterioration in relations between particular communities or groups of people?</i>	
Promote positive attitudes towards different communities or groups <i>Will this proposal help to improve understanding, attitudes and behaviours of both service users and employees towards particular communities e.g. women, LGBTI people or people with disabilities – or will it hinder progress in these areas?</i>	
Increase participation of particular communities or groups in public life <i>Will this proposal support or hinder greater participation in public life for particular groups for example:</i> <ul style="list-style-type: none"> • <i>disabled people holding public office</i> • <i>people with learning difficulties being involved in the awarding and review of care provision contracts and</i> • <i>women standing for election or being recruited into senior management posts?</i> 	
Improve the health and wellbeing of particular communities or groups <i>Will the proposal support people of all ages to be fit and have healthy lifestyles, including a work/ family life balance?</i>	
Promote the human rights of particular communities or groups <i>Will the proposal enhance and promote human rights such as dignity and respect, and the right to private and family life?</i>	
Tackle deprivation faced by particular communities or groups <i>Will the proposal help improve access to employment, support educational attainment, or reduce poverty?</i>	

4. Summary Assessment

Having considered all the different communities and groups that are likely to be impacted by the proposal and the level of that impact across all the requirements of the general duty make a decision based on available evidence and information whether you believe that the proposal has an overall high, medium or low relevance to equality.

It is important to note that the purpose of the scoping exercise is to assess the equalities relevance of the proposal and identify whether an EIA is required. The scoping exercise identifies the potential equality impacts and the full equality impact assessment considers them in more detail.

All proposals identified as high or medium impact must be equality impact assessed.

If, after completing the equalities scoping template, you are still unsure of the level of relevance then, it is recommended that you go on to conduct a full EIA. This will help to clarify any concerns or uncertainties you might have, and gaps in evidence and information that may exist at this stage.

<p>Is a full Equality Impact Assessment required? (A full Equality Impact Assessment must be carried out on all high and medium impact proposals)</p> <p>Simply indicate by selecting 'yes' or 'no' whether your decision on relevance leads to a recommendation to conduct an equality impact assessment.</p> <p>Please note that all proposals identified as high or medium impact must be equality impact assessed.</p>	<p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p>
<p>Rationale for decision:</p> <p>Where a decision has been taken not to progress with an EIA it is important to record this, and provide an explanation of how you made your decision.</p> <p>Generally, this will only require a brief explanation, however you must ensure that you provide sufficient information to demonstrate that your decision was reached objectively</p> <p>Not only will this help you to refer back to why certain decisions were taken in the future, you will also be able to provide the necessary evidence in order to defend your decisions should the need arise, both from an internal and external perspective</p>	
<p>Signed :Head of Service</p>	
<p>Date: Insert the date of sign-off by Head of Service as part of the evidence of record of decisions.</p>	<p>Once the proposal is included as part of a Council/Panel papers, a copy of this attached Equality Impact Assessment Scoping Document must be sent to the Policy and Performance Service - equalities@south-ayrshire.gov.uk who will arrange for the document to be published (as this is a statutory requirement) in the Equality and Diversity Section of the Council's website.</p> <p>Where the proposal/procedure etc. does not require Council/Leadership Panel approval, the signed off copy is forwarded to the above mailbox. This ensures that an audit trail is available on all decisions not to undertake an equality impact assessment.</p>

How to Complete the Equality Impact Assessment

South Ayrshire Council Equality Impact Assessment

(This template is available as a word document so that individual boxes can be expanded as required,)

Section One: Proposal Details*

Name of Proposal	Insert the name of the proposal, strategy, project, procedure, initiative or financial decision etc..
Lead Officer (Name/Position)	The officer who is responsible for developing the proposal.
Support Team (Names/Positions) including Critical Friend(s)	<p>This should be the team providing support to the lead officer in carrying out the EIA. This should include:</p> <ul style="list-style-type: none">• at least one person involved in developing the new proposal and / or• Directorate Equality Champions or colleagues who have had training and experience in completing EIAs. <p>If wider expertise is needed it may be helpful to consider inviting one or two other others to join the assessment including representatives from outwith the Council if appropriate.</p>

*The term Proposal is used throughout the assessment to embrace the full range of policies, procedures, strategies, projects, applications for funding or financial decisions.

What are the main aims of the proposal?	Give a brief summary of the aims of the proposal i.e. its purpose. This should include reference to other relevant documents such as the Council Corporate Plan and/or Directorate Plans,
What are the intended outcomes of the proposal	Give a brief summary of the expected outcomes of the proposal i.e. what you hope to achieve.

Section Two: What are the Likely Impacts of the Proposal?

In this section the assessment should be used to identify the main impacts that the proposal could have on different groups and themes particularly relevant to South Ayrshire.

The groups listed relate to the statutory requirements of the legislation i.e. the protected characteristics :

- age,
- disability,
- race,
- sex
- gender reassignment,
- pregnancy and maternity,
- sexual orientation
- religion or belief (including non-belief) and
- marriage and civil partnerships (in respect of eliminating unlawful discrimination).

together with equality and diversity themes identified by Council as being particularly relevant to South Ayrshire :

- health,
- human rights
- rurality and
- deprivation.

Further background information on Human Rights is detailed in Appendix 1

For each group you should identify any particular impact or issues that the proposal may have for the group. Impacts could be positive or negative and both should be described. A new proposal may set out to improve service provision for a particular group, but it might also have unintended consequences for other groups or it might present particular challenges in relation to a group.

Impact assessment is not a precise science and it will not be possible to identify all the possible consequences of a proposal. For service related proposals where you are unsure of the likely impacts on a particular protected characteristic it may be helpful to contact a member of the Equality and Diversity Forum or circulate the draft to stakeholders - both partners and community groups, who can help to identify unforeseen impacts.

Please ensure that if there are no impacts on a particular protected characteristic or theme that you state the reasons for this within the response box. This indicates that you have considered the impact on each characteristic

Will the proposal impact upon the whole population of South Ayrshire and/or particular groups within the population (please specify).	The proposal may impact upon the whole community, with particular emphasis on one group – such as older people or refer solely to one particular group. For example, the Council’s Housing and Homelessness Services Domestic Abuse Policy, is aimed primarily at – “Any person who is the victim of domestic abuse or is assessed as homeless or threatened with homelessness as a result of domestic abuse”.
---	--

Considering the following Protected Characteristics and themes, what likely impacts or issues does the proposal have for the group or community?

List any likely positive and/or negative impacts.

Protected Characteristics	Positive and/or Negative Impacts
<p>Race: Issues relating to people from different racial groups, ethnic or national origins ethnic minorities, including gypsy travellers and migrant workers</p>	<p>Although the Council has an ethnic minority population of less than 1%, it is made up of a large number of different ethnicities e.g. individuals and families from Singapore, the Philippines, China, Poland etc. Insert the impact/issues for both ethnic minority communities and the settled community – this is an important consideration for fostering good relations.</p>
<p>Sex: Issues specific to women and/ or men</p>	<p>Consider if there are impacts that relate to women or men. For example, there are a larger proportion of women who work part-time than men and tend to have more caring responsibilities. So to ensure inclusivity of access to your service, you may like to consider alternative opening hours, evening consultation and publicity events.</p>
<p>Disability: Issues relating to disabled people</p>	<p>A person has a disability if s/he has a physical or mental impairment which has a substantial and long-term adverse effect on that person's ability to carry out normal day-to-day activities.</p> <p>Consider if what is being proposed causes or removes any barriers for disabled people to access or participate in services.</p>
<p>Age: Issues relating to different age groups e.g. older people or children and young people</p>	<p>Although, there is a higher than average number of older people in South Ayrshire, you should consider the impacts on all age ranges including children and young people.</p>
<p>Religion or Belief: issues relating to a person's religion or belief (including non-belief)</p>	<p>Religion has the meaning usually given to it but belief includes religious and philosophical beliefs including lack of belief (e.g. Atheism). Generally, a belief should affect your life choices or the way you live for it to be included in the definition.</p> <p>Consider whether there are any adjustments needed to ensure all religions and beliefs are included in what is being proposed e.g. timing of events/services to allow for religious observance.</p>
<p>Sexual Orientation: Issues relating to a person's sexual orientation i.e. lesbian, gay, bi-sexual, heterosexual</p>	<p>Over half LGB people conceal their sexual orientation when using a public service, for fear of discrimination. Does your proposal impact on LGB people, and if so does the proposal tackle discrimination or are there opportunities to positively profile LGB people? Example: Does an housing allocations policy apply equally to heterosexual cohabiting couples and lesbian or gay cohabiting couples?</p>

<p>Marriage and Civil Partnership: Issues relating to people who are married or are in a civil partnership.</p>	<p>Civil partners must be treated the same as married couples on a wide range of legal matters. Examples: a. Does this proposal impact equally on the parents of a pupil, who are in a civil partnership compared to a pupil with married parents, and b. Council arrangements for providing marriage and civil partnership services and facilities should be to the same standard.</p>
<p>Gender Reassignment: Issues relating to people who have proposed, started or completed a process to change his or her sex.</p>	<p>Does the proposal treat people transitioning their sex with equal dignity and respect?</p>
<p>Pregnancy and Maternity: Issues relating to the condition of being pregnant or expecting a baby and the period after the birth.</p>	<p>Does the proposal offer protection against a woman being treated unfavourably because she is pregnant or has given birth.</p>
<p>Multiple / Cross Cutting Equality Issues Issues relating to multiple protected characteristics .</p>	<p>People with multiple protected characteristics can potentially face greater incidences of discrimination and consideration than those only falling into a single category or a few categories. For example a Muslim female who has a physical disability and requires access to local authority leisure facilities for maintaining her health has the potential to have a very different experience from a male with a physical disability who is an atheist.</p>
<p>Equality and Diversity Themes Relevant to South Ayrshire Council</p>	
<p>Health Issues and impacts affecting people's health</p>	<p>Detail how the proposal improves or negatively affects people's health and well-being.</p>
<p>Human Rights: Issues and impacts affecting people's human rights such as being treated with dignity and respect, the right to education, the right to respect for private and family life, and the right to free elections.</p>	<p>Detail how the proposal supports or inhibits the Human Rights of the communities affected by the proposal.</p>
<p>Rurality Impacts relating to living and working in a rural community</p>	<p>Consider if the proposal impacts differently on people living in rural areas, compared to those living in the towns of South Ayrshire e.g. does it cost more/ take a longer time to access services affected by the proposal?</p>
<p>Deprivation Issues relating to poverty and social exclusion, and the disadvantage that results from it.</p>	<p>Does the proposal improve people's life circumstances e.g. improve low incomes, unemployment?</p>

Section Three: Evidence Used in Developing the Proposal

Section three provides the opportunity for the respondent to set out the evidence on impacts that has been collected in the development of the proposal.

<p>Involvement and Consultation In assessing the impact(s) set out above what evidence has been collected from involvement, engagement or consultation? Who did you involve, when and how?</p>	<p>Both the relevant equalities legislation and the duty to achieve best value demand effective consultation and engagement. This question allows the proposal maker to describe how this was achieved. Setting out the details can also help to identify those groups that may have been unintentionally missed out</p> <p>Auditors will expect to see evidence of engagement with relevant groups where proposals are targeted those groups. For example if a proposal has been developed for a group of people with a particular disability, have people from that group been involved in its development?</p> <p>Example: Equality and Diversity Forum Workshops were held on the 2nd December 2010 and 25th January 2011 to identify stakeholder issues on the protected characteristics as part of the consultation on the Equality and Diversity Strategy under development.</p>
<p>Data and Research In assessing the impact set out above what evidence has been collected from research or other data. Please specify <i>what</i> research was carried out or data collected, <i>when</i> and <i>how</i> this was done.</p>	<p>Set out the data or research that has been used, whether local or national, in the development of the proposal, including any relevant government guidance that has influenced the development of the proposal.</p>
<p>Partners data and research In assessing the impact(s) set out in Section 2 what evidence has been provided by partners? Please specify partners.</p>	<p>Data and information from a partner can help evidence impacts rather than duplicate efforts to consult and involve relevant groups</p> <p>For example, NHS data on incidence of alcohol and drug misuse.</p>
<p>Gaps and Uncertainties Have you identified any gaps or uncertainties in your understanding of the issues or impacts that need to be explored further?</p>	<p>Few proposals are developed in the context of perfect information or understanding of all the issues. This part of the assessment offers an opportunity to highlight these gaps and uncertainties. For example - the lack of accurate information on the number of migrant worker individuals and families which may impact on housing and school services.</p>

Section Four: Detailed Action Plan to address identified gaps in:

- a) evidence and
- b) to mitigate negative impacts

No	Action Set out, if necessary, an action plan to remedy and fill in any gaps in evidence as well as mitigating negative impacts.	Responsible Officer(s)	Timescale
1	Gap in evidence example: Work with partners to update the map of Ayrshire Communities	Insert name of officer responsible for completing the action and liaising with the assessment Lead Officer	Insert Completion date for the Action.
2	Mitigate negative impacts example: To ensure burial and cremation services are inclusive and respect human rights, arrangements are being made to meet with the Ayrshire Minority Ethnic Community Association to discuss burial and cremation requirements for various religious and ethnic minority communities in South Ayrshire.		
3			
4			
5			

Note: Please add more rows as required.

Section Five - Performance monitoring and reporting

This section allows the respondent to describe how the proposal will be taken forward. This will act as a record for future reviews, monitoring, and for identifying any training requirements.

Considering the proposal as a whole, including its equality and diversity implications:

When is the proposal intended to come into effect?	Insert the date of the Full Council or Leadership Panel meeting that approval of the proposal is being sought.
When will the proposal be reviewed?	Insert the date of planned review of the proposal, which unless prescribed by legislation/national standards, should be approximately three years.
Which Scrutiny Panel will have oversight of the proposal?	Insert the appropriate Standing Scrutiny Panel

This section summarises how the proposal assists or inhibits the Council in meeting its general duties by detailing how it gives due regard to across the three aims. This summary form is used as an appendix within each report to Full Council or the Leadership Panel that relates to a new or reviewed proposal or procedure.

Section 6

South Ayrshire Council

Appendix

Summary Equality Impact Assessment Implications & Mitigating Actions

Name of Proposal:

This proposal will assist or inhibit the Council's ability to eliminate discrimination; advance equality of opportunity; and foster good relations as follows:

<p>Eliminate discrimination</p> <p>in determining how the proposal will there is evidence to indicate that:</p> <ul style="list-style-type: none"> • the proposal may result in less favourable treatment for particular groups; • the proposal may give rise to indirect discrimination; • The proposal is more likely to assist or impede you in making reasonable adjustments.
<p>Advance equality of opportunity</p> <p>In determining how the proposal will advance equality of opportunity you should record whether it will help you to:</p> <ul style="list-style-type: none"> • remove or minimise disadvantage; • meet the needs of different groups; and • encourage increased participation of particular groups.
<p>Foster good relations</p> <p>In determining how the proposal will affect good relations, you should record whether it will help you to:</p> <ul style="list-style-type: none"> • tackle prejudice; and • promote understanding.

Summary of Key Action to Mitigate Negative Impacts	
Actions	Timescale
Insert the key actions planned to mitigate negative impacts from those detailed in Section 4	Insert completion date of actions

When completed, the assessment is signed off by the relevant Head of Service.

Signed:**Head of Service**

Date:

Human Rights Guidance to Support Completion of Equality Impact Assessment Documentation

Please note the government has announced that it intends to bring forward proposals for a British Bill of Rights to replace the Human Rights Act. The government has also said that this would protect existing rights.

Detailed below is a summary extract from the Equality and Human Rights Commission Guidance: *Human rights at home: Guidance for social housing providers*, but full EHRC Human Rights Guidance is available here:

<http://www.equalityhumanrights.com/publication/human-rights-human-lives-guide-human-rights-act-public-authorities>

1. What are human rights and where do they come from?

Human rights are the basic rights and freedoms that belong to everyone. They mean that everyone should be treated fairly, with dignity and respect. Britain has a long history of protecting human rights and these values have been central to our democratic system for many years.

The UK is signed up to a treaty called the European Convention on Human Rights (ECHR). The Convention is made up of articles which set out the human rights protected. If a person thinks that their human rights have been breached by a State which is a party to the ECHR (and satisfies certain conditions), he or she can take a case to the European Court of Human Rights (ECtHR).

The HRA makes most of the rights in the ECHR part of our own law in the UK. It allows people to take cases to a court in the UK about the human rights contained in the ECHR.

2. How does the Human Rights Act (HRA) work?

There are 16 rights in the HRA, which are all taken from the ECHR. For this reason, they are referred to as the Convention Rights.

The HRA requires all public authorities to treat people in accordance with the Convention Rights, unless required by an Act of the Westminster Parliament to do something incompatible with the Convention Rights. These organisations can also have a duty to stop other people or companies from abusing human rights in certain situations. For example, where a public authority knows that a child is being abused by its parents it has a duty to take steps to protect the child from inhuman or degrading treatment.

If an individual thinks their human rights have been breached by a public authority or someone carrying out a public function, they can take a court case in the UK courts against the body that appears to have breached them. This means that if your organisation is subject to the HRA, you must think about how your work might affect people's human rights. This is important both when you are designing your organisation's policies and practices and when you are delivering your service to the public.

The HRA also says that, as far as possible, other laws should be interpreted in a way which does not breach the Convention Rights. So courts may 'read into' the legislation a meaning that is compatible with human rights, even if the law does not seem to have that meaning at first sight. This means that when a law requires you to do something, you should interpret the requirement in a way which is compatible with the human rights in the HRA unless it is not possible to do so.

3. Which human rights are protected by the HRA?

There are 16 rights in the HRA. Everyone has these rights, regardless of their immigration status or citizenship. The rights contained in Articles 6, 8 and 14 are those which are most likely to be relevant to your work in social housing. These rights are explained briefly below. Appendix 1 contains a brief explanation of the other Convention Rights. Chapter 5 explains how these might relate to your work in social housing.

The HRA recognises the need to protect the rights of the wider community while protecting each individual's human rights. There are three types of right:

- **Absolute rights:** These cannot be breached or restricted under any circumstances.
- **Limited rights:** These can be limited in the particular circumstances set out in each Article.
- **Qualified rights:** These can be limited to the extent necessary to achieve certain important objectives, like protecting public health, or security. This allows a balance between the right of the individual and the interests of the community. But any restriction on an individual's human rights must be permitted by law and must be no greater than necessary to achieve the objective. The idea that any interference with a qualified right must not be excessive in the circumstances is known as 'proportionality'.

We explain below whether and how each right can be restricted.

Article 2: Right to life

Article 2 is a limited right. Everybody has the right not to be deprived of their life except in the limited circumstances described in Article 2. Where you suspect someone's life is at risk, for example, as a result of domestic violence, you should take active steps to protect their life. You should also do so if someone lives under your care. If you work with people known to be dangerous, you should take steps to protect the public from such persons. This right can also require an official investigation into deaths.

Article 3: Prohibition of torture

Nobody shall be subjected to torture, or to any treatment or punishment which is inhuman or degrading. This is an absolute right. It will never be justifiable to torture someone or subject them to inhuman or degrading treatment. You must not treat anyone in this way and must intervene to stop torture and inhuman or degrading treatment if you know it is happening to someone. For example if you know a child is being ill treated or a disabled person is being harassed, you have a duty to take action to stop it. This right can also require an official investigation into allegations of torture and inhuman or degrading treatment.

Article 4: Prohibition of slavery and forced labour

Article 4 is a limited right. Nobody can be owned by another person or made to do work that they have not agreed to do, except in the circumstances described in Article 4, such as when it is part of a sentence for a crime. If you suspect someone is being forced to work without suitable payment, you should take action to protect that person's rights.

Article 5: Right to liberty and security

Article 5 is a limited right. Nobody can be detained or arrested, even for a short period, except in the specific circumstances described in Article 5. The right also sets out the steps which must be followed by those who have the power to arrest and detain others.

Article 6: Right to a fair trial

Article 6 is an absolute right. Everyone has the right to a fair and public hearing, before an independent and impartial tribunal, within a reasonable time. This right applies where someone's private rights are at stake, such as in contractual or property disputes. It also applies to criminal trials. The right to a fair hearing means, broadly, that a person should be given the opportunity to participate effectively in any hearing of their case, and to present their case in conditions which do not place them at a substantial disadvantage when compared with the other party in the case. For example, a person who is subject to a decision-making process in relation to a possible eviction should have access to an interpreter, if necessary. Decisions should be given with reasons. Article 6 is likely to be particularly relevant in review or appeal proceedings which would determine a tenant's rights. However, it may not be necessary for decision-making to fulfil all the conditions of a 'fair hearing' if a person has access to a subsequent appeal process which would satisfy these requirements.

Article 7: No punishment without law

Nobody should be convicted of a criminal offence if the act or omission was not criminal at the time it was committed. Nobody should be given a punishment which is greater than the one that was applicable at the time they committed the crime. This is an absolute right.

Article 8: Right to respect for private life, family life and the home

Everyone has the right to respect for their private and family life - and also the right to respect for their home and correspondence. 'Private life' has a very wide meaning. People should be able to live in privacy and be able to live their life in the way that they choose. Their personal information should be kept private and confidential. The right to respect for a person's home is not a right to housing, but is a person's right to access and live in their home without intrusion or interference. The right to respect for family life includes the right for a family to live together. You should take positive steps to prevent other people seriously undermining a person's home or private life, for example, through serious pollution or anti-social behaviour.

Article 8 is a qualified right. This means that you cannot interfere with the right, for example by forcing people to leave their homes, unless you are acting in the interests of national security, public safety or the economic wellbeing of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others. You must be acting in accordance with the law and there must be no less intrusive way of achieving your objective.

Article 9: Freedom of thought, conscience and religion

Everyone has the right to hold religious beliefs, personal opinions and views without interference. This includes the right to change religion or belief, and not to hold any religion or belief. This is an absolute right.

People also have the right to practise, observe, teach and worship in accordance with their religion or belief, but this is a qualified right. It can be restricted, but only in accordance with the law in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others, and only to the extent necessary to achieve one of these aims.

Article 10: Freedom of expression

Everyone has the right to hold and express opinions freely, even if they are unpopular. This includes expression through public speaking and by demonstrations and in leaflets, newspapers or on the internet. People also have the right to receive opinions and information. This is a qualified right. You may, therefore, place restrictions on this right, if your basis for doing so is set out in a law, if you do so for one of the specified reasons (in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary), and your interference with the right is no more than is necessary to achieve the aim. For example, if a person incites racial hatred, you can take action to stop it by reporting it to the police.

Article 11: Freedom of assembly and association

Everyone has the right to assemble and associate with other people in a peaceful way, including by holding demonstrations and forming or joining a trade union. Nobody can be forced to join a protest, or an association. This is also a qualified right. This means that you can only do something which interferes with this right in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others and if you have a legal basis for doing so. You cannot interfere with it more than is necessary for those purposes.

Article 12: Right to marry

All men and women of marriageable age have the right to marry and found a family. The State can decide what marriageable age is. This is an absolute right.

Article 14: Prohibition of discrimination

This means that everyone must have equal access to the other rights contained in the HRA, regardless of their race, religion, gender, sexual orientation, disability, political views or any other personal characteristic. For example, the HRA means that a gay couple has to be treated in the same ways as a heterosexual couple in relation to the right to succeed to a tenancy. In order to gain protection under Article 14, the treatment complained of must relate to one of the other Convention Rights, but it need not amount to a breach of that other right. Article 14 is a qualified right. A difference in treatment can only be justified if there is a good reason for the treatment and if it is proportionate in the light of that reason. Article 14 does not list the 'legitimate reasons' which would justify a difference in treatment.

Article 1 of Protocol 1: Right to protection of property

Everyone has the right to enjoy their property peacefully. 'Property' covers leases and personal property. This is a qualified right. You cannot take away someone's property, or place restrictions on how they use it, unless you are doing so in the general interest and have a proper legal basis for doing so. You should also strike a fair balance between the rights of the individual and the general interest.

Article 2 of Protocol 1: Right to education

Nobody should be denied access to the educational system which exists. This does not create a right of access to any particular educational establishment. Parents' religious and other beliefs should be respected when their children are educated by the State. This is an absolute right.

Article 3 of Protocol 1: Right to free elections

The government must hold elections at reasonable intervals. The elections must enable people to vote in secret. This is an absolute right.

Glossary

Absolute rights: These are human rights which cannot be breached or restricted under any circumstances.

Article: This is a section of an international treaty or convention. Each human right protected in the Human Rights Act is found in an Article of the European Convention of Human Rights or its Protocols.

Convention: This is an agreement between States. These international agreements are also called treaties.

Convention Rights: These are the human rights protected by the Human Rights Act.

ECHR: In this guidance, ECHR is used as shorthand for the European Convention on Human Rights.

ECtHR: In this guidance, ECtHR is used as shorthand for the European Court of Human Rights.

Judicial Review: This is a procedure which allows individuals to challenge acts or omissions of public bodies before the courts.

Limited rights: These are human rights which can be limited in the particular circumstances set out in the Article containing the right.

Protocol: A protocol is a later addition to a convention or treaty.

Public function: Broadly, a public function is a role or activity of a type normally carried out by the State. However, there is no list of public functions or specific definition of a public function. The courts decide on a case-by-case basis whether a particular activity is 'a function of a public nature'.

Qualified rights: These are human rights which can be limited to the extent necessary to achieve certain important objectives, like protecting public health, or security. Any restriction on an individual's human rights must be no greater than necessary to achieve the objective and must be otherwise in accordance with the law.

Treaty: This is an agreement between States. These international agreements are also called conventions.