

## Appendix 1

### Consideration of human rights in enforcement decision making

#### Why is the Human Rights Act (HRA) relevant?

Many enforcement decisions will involve affecting someone's human rights. They may involve balancing the rights of a group of people against the rights of one individual. Some rights are absolute but most have limitations or exceptions.

#### Relevant human rights

Council enforcement is typically most relevant to the following human rights:

- Article 14 - **Freedom from discrimination**
- Article 6 - **Right to a fair trial**
- Protocol 1, Article 1 - **Protection of property** including:
  - Right to peace enjoyment of property
  - Public authority cannot take away property
  - Public authority cannot impose restrictions on a person's use of property
- Article 8 - **Right to respect for private and family life**
- Article 10 - **Freedom of expression**
- Article 11 - **Freedom of assembly and association**

#### Assessment of any enforcement action

Is the proposed action:

- **Sufficient** – is there a balance the rights and is it in the public interest?
- **Proportionate** – Is it proposing a sledgehammer to crack a nut?
- **Relevant** – Are there relevant reasons to interfere?

#### Where are there commonly HRA implications?

Potential human rights enforcement implications include:

- Noise nuisance
- Contaminated land
- Licensing Act hearings
- Prohibition/closure/seizure
- Planning enforcement
- Housing
- Anti social behaviour

#### Recording HRA assessments

The checklist below should be used to record any human rights implications of proposed enforcement action and should be kept on the case file.

## Human Rights Act Checklist

Subject/Case No.	
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	Question	Consideration/explanation	Answer				
1.	Does your decision affect anyone's human rights?		Yes	No			
2.	Whose rights are affected (may be more than one party)						
3.	Which rights are affected? (delete those not relevant)	Discrimination	Fair trial	Property	Private & family life	Expression	Assembly
	Question	Consideration/explanation	Answer				
4.	Do people affected speak English as a first language?		Yes	No			
4.	Do they have any difficulties with reading/writing?		Yes	No			
5.	Is the proposed action discriminatory? E.g. sex, race, colour, language, religion, political or other opinion, national or social origin, association with national minority, property, birth, sexual orientation, whether born inside or outside of marriage, disability, marital status, age or any other status.		Yes	No			
6.	Does the proposed action rely on an exception to the right which is affected? If so, is it:						
	- in the interests of public safety?		Yes	No			
	- for the prevention of crime or disorder?		Yes	No			
	- for the protection of health and morals?		Yes	No			
	- protection of the rights and freedoms of others?		Yes	No			
7.	Are you acting pursuant to a statutory duty?		Yes	No			
8.	Have you any discretion of choice over the action?		Yes	No			
9.	After due consideration, is this decision compatible with the convention rights?		Yes	No			
10.	Is there any right of appeal against your action?						
	- to the courts?		Yes	No			
	- to an internal appeal mechanism?		Yes	No			
	- through the judicial review process?		Yes	No			

Decision and reason	
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Officer \_\_\_\_\_

Date \_\_\_\_\_

Team leader/service manager \_\_\_\_\_

Date \_\_\_\_\_