

Human Rights: Risk Management

Human rights are inherent in many of the risks posed by or to people being supported. Different rights are also raised when various strategies are employed to manage these risks.



When developing strategies, useful questions to ask include:

- Which rights are raised?
- What type of right is it? (i.e. absolute, non-absolute)
- Whose rights are they?
- Do I have a duty to protect the rights?
- How do I make sure I'm not breaching them? If the right is non-absolute, for all strategies employed, you must ensure that:
 - there is a legitimate aim (e.g. To protect other people's rights)
 - The strategy is necessary (e.g. Is it really needed to achieve that aim?)
 - The strategy is lawful
 - The strategy is proportionate (i.e. The least restrictive alternative?)

Some key considerations include:

- Is the strategy appropriate and not excessive to the risk posed?
- Is the interference with the persons rights kept to a minimum?
- Is the least restrictive strategy being used?
- What will be left of the persons rights if you employ the strategy?
- Is there an alternative, less drastic strategy?

A small number of human rights are recognised as absolute rights which cannot be limited for whatever reason:

- Freedom from torture and other cruel, inhuman or degrading treatment or punishment (ICCPR Article 7)
- Freedom from slavery and servitude (ICCPR Article 8)
- Freedom from imprisonment for inability to fulfil a contractual obligation (ICCPR Article 11)
- Prohibition against the retrospective operation of criminal laws (ICCPR Article 15)
- Right to recognition as a person before the law (ICCPR Article 16)

Human Rights: Considerations with Risk Strategies

This form is to assist your decision-making process when developing risk management strategies.

1. WHAT RIGHTS ARE INVOLVED WITH THE IDENTIFIED RISK?

It will be useful to keep human rights in mind to make balanced decisions and when considering proportionality.

2. WHOSE RIGHTS ARE INVOLVED IN THE RISK?

Person, staff, community, property

3. WHAT ARE THE STRATEGIES FOR RESPONDING TO THE RISK?

Proactive / Reactive

4. WHO WILL BE AFFECTED BY THE STRATEGIES?

Person, staff, community, property

5. WILL THE STRATEGIES IMPACT ON ANYONE'S RIGHTS?

If yes, which rights does the strategy impact, and how?

6. WILL THE STRATEGY RESTRICT ANYONE'S RIGHTS?

If yes,

Are any of the rights absolute?

If yes, then the strategy may not be human rights compliant. If you are concerned about this you should:

- Change the strategy so that it does not restrict the right
- Consider seeking legal advice

If the right is NOT absolute then . . .

- i) Is the restriction of the right lawful?
- ii) Do you have a legitimate aim that is in accordance with the Human Rights Act (e.g. the protection of other people)? How can you evidence this?
- iii) Is the strategy necessary to achieve this aim?
- iv) Is the strategy proportionate?
- v) Are there any competing rights? Is your decision balanced?

If no to (or you are unsure about any of these), then your strategy may not be human rights compliant.

There is room to write about this on the next page.

7. MINI CHECKLIST

Some key considerations for all strategies include:

- Whose rights are they?
- How do I make sure I'm not breaching them?
- Is the strategy appropriate and not excessive to the risk posed?
- Is the interference with people's rights kept to a minimum?
- Is the least restrictive strategy being used?
- What will be left of the persons rights if you employ the strategy?
- Is there an alternative, less drastic strategy?
- Has the person and/or their family been involved in the development of the strategy?

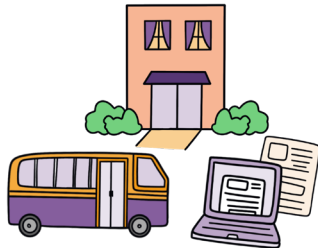


If your answer is no to any of the questions, then the strategy may not be human rights compliant. Consider all the rights involved and aim to make a balanced decision, involving the person.

8. WHAT NEXT?

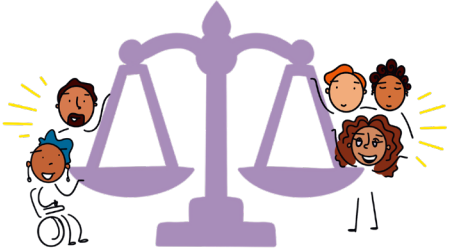
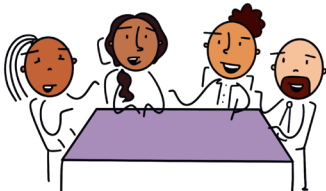


If you are concerned that the strategy is not human rights compliant or with any of the decisions you have made, what action will you take? You could:


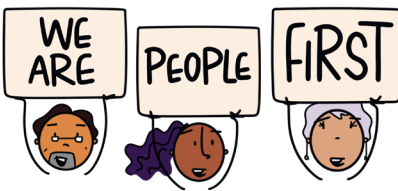


- Change the strategy so that it does not restrict the right
- Seek legal advice





Human Rights Impact Risks and Safeguards

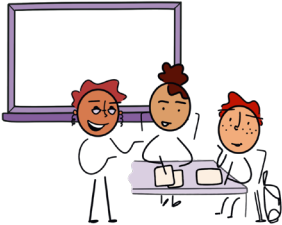



Impact on the Person's Human Rights (CRPD)	Right Removed	Severe Impact	Significant Impact	Moderate Impact	Minor Impact	Right Upheld
ARTICLE 9 PEOPLE WITH DISABILITIES HAVE EQUAL ACCESS TO PUBLIC SPACES, TRANSPORTATION, EASILY UNDERSTANDABLE INFORMATION, AND OTHER SERVICES IN ORDER TO HAVE A FULLY INCLUDED AND INDEPENDENT LIFE IN THE COMMUNITY 						
ARTICLE 10 PEOPLE WITH DISABILITIES HAVE THE RIGHT TO LIFE. 						
ARTICLE 11 PEOPLE WITH DISABILITIES ARE PROPERLY PROTECTED IN SITUATIONS OF RISK -LIKE DURING A NATURAL DISASTER 						


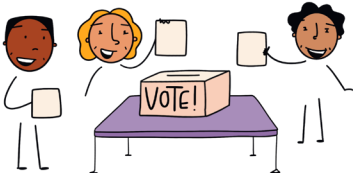



Impact on the Person's Human Rights (CRPD)	Right Removed	Severe Impact	Significant Impact	Moderate Impact	Minor Impact	Right Upheld
ARTICLE 12 PEOPLE WITH DISABILITIES ARE RECOGNISED AND TREATED EQUALLY UNDER THE LAW. 						
ARTICLE 13 PEOPLE WITH DISABILITIES HAVE EQUAL ACCESS AND OPPORTUNITY TO PARTICIPATE IN THE JUSTICE SYSTEM 						
ARTICLE 14 PEOPLE WITH DISABILITIES HAVE THE RIGHT TO LIVE IN FREEDOM AND SAFETY 						
ARTICLE 15 PEOPLE WITH DISABILITIES ARE NOT TO BE TREATED CRUELLY, TORTURED, OR BE EXPERIMENTED ON 						

Impact on the Person's Human Rights (CRPD)	Right Removed	Severe Impact	Significant Impact	Moderate Impact	Minor Impact	Right Upheld
<p>ARTICLE 16</p> <p>PEOPLE WITH DISABILITIES ARE PROTECTED FROM ABUSE</p> 						
<p>ARTICLE 17</p> <p>PEOPLE WITH DISABILITIES SHOULD BE TREATED EQUALLY AS PEOPLE FIRST</p> 						
<p>ARTICLE 18</p> <p>PEOPLE WITH DISABILITIES HAVE THE FREEDOM TO CHOOSE WHERE/HOW THEY LIVE, WHERE THEY GO, AND THE COUNTRY OR NATIONALITY THEY BELONG TO.</p> 						
<p>ARTICLE 19</p> <p>PEOPLE WITH DISABILITIES HAVE THE RIGHT TO LIVE A FULLY INDEPENDENT LIFE IN THE COMMUNITY.</p> 						

Impact on the Person's Human Rights (CRPD)	Right Removed	Severe Impact	Significant Impact	Moderate Impact	Minor Impact	Right Upheld
<p>ARTICLE 20</p> <p>PEOPLE WITH DISABILITIES HAVE EQUAL ACCESS TO AFFORDABLE ACCESSIBLE TRANSPORTATION SERVICES</p> 						
<p>ARTICLE 21</p> <p>PEOPLE WITH DISABILITIES HAVE THE RIGHT TO EXPRESS THEIR THOUGHTS, OPINIONS, AND BELIEFS AND TO ACCESS INFORMATION.</p> 						
<p>ARTICLE 22</p> <p>PEOPLE WITH DISABILITIES HAVE THE RIGHT TO PRIVACY</p> 						
<p>ARTICLE 23</p> <p>PEOPLE WITH DISABILITIES HAVE THE RIGHT TO BE IN RELATIONSHIPS, MARRY, AND RAISE A FAMILY.</p> 						

Impact on the Person's Human Rights (CRPD)	Right Removed	Severe Impact	Significant Impact	Moderate Impact	Minor Impact	Right Upheld
ARTICLE 24 PEOPLE WITH DISABILITIES HAVE THE RIGHT TO RECEIVE AN INCLUSIVE EDUCATION 						
ARTICLE 25 PEOPLE WITH DISABILITIES HAVE THE RIGHT TO AFFORDABLE, HIGH QUALITY HEALTHCARE. 						
ARTICLE 26 PEOPLE WITH DISABILITIES HAVE EQUAL ACCESS TO HABILITATION AND REHABILITATION SERVICES IN ORDER TO LIVE A FULL LIFE IN THE COMMUNITY 						
ARTICLE 27 PEOPLE WITH DISABILITIES HAVE THE RIGHT TO WORK AND EARN A FAIR, LIVABLE WAGE. 						

Impact on the Person's Human Rights (CRPD)	Right Removed	Severe Impact	Significant Impact	Moderate Impact	Minor Impact	Right Upheld
ARTICLE 28 PEOPLE WITH DISABILITIES HAVE THE RIGHT TO A REASONABLE STANDARD OF LIVING FOR THEMSELVES AND THEIR FAMILIES 						
ARTICLE 29 PEOPLE WITH DISABILITIES HAVE THE RIGHT TO PARTICIPATE IN POLITICAL ACTIVITIES 						
ARTICLE 30 PEOPLE WITH DISABILITIES HAVE THE RIGHT TO PARTICIPATE IN SPORTS, RECREATION, THE ARTS, AND OTHER LEISURE ACTIVITIES 						





Risk, Safeguard and Human Rights Summary and Action Form

<i>Risk</i>	<i>Overall Risk Rating 1- 25</i>	<i>Safeguard</i>	<i>Human Rights Impacted</i>	<i>Impact Rating</i>	<i>Person's Perspective</i>	<i>Action</i>

Example

<i>Risk</i>	<i>Overall Risk Rating 1-25</i>	<i>Safeguard</i>	<i>Human Rights Impacted</i>	<i>Impact Rating</i>	<i>Person's Perspective</i>	<i>Action</i>
<i>Financially being exploited by other people, leaving no money for the person to pay their rent/buy food.</i>	<i>5</i>	<i>1. Legal Financial Administrator 2. Building Individual Personal Capital 3. Increasing positive relationships around the person</i>	<i>Article 12, 14, 17, 19, 28</i>	<i>1. Right removed 2. Right Upheld 3. Right Upheld</i>	<i>The person does not want anyone to take financial control of their money.</i>	<i>No application for Administration Order. Brainstorm how the person can be supported to build person capital and personal relationships</i>